HUMAN RIGHTS

The First Twenty Years

Progress Report of the Committee on the Elimination of Racial Discrimination

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Progress Report of the Committee on the Elimination of Racial Discrimination

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Chapter I

Mandate of the Committee

A. Structure of the Convention

1. The International Convention on the Elimination of All Forms of Racial Discrimination consists of a preamble and three parts.

2. Part I (arts. 1 to 7) deals with the substantive, anti-discrimination obligations of States parties; it specifies the measures they undertake to adopt for the elimination of racial discrimination. In article 1, the term "racial discrimination" is defined and the limits of the scope and applicability of the Convention are demarcated.[1] The anti-discrimination obligations of States parties are laid down in articles 2 to 7.

3. Part II (arts. 8 to 16) covers "measures of implementation". Although the actual implementation of the anti-discrimination provisions of part I of the Convention is clearly the responsibility of the States parties themselves, the provisions of part II of the Convention aim at ensuring international scrutiny and review of the fulfilment of those obligations by the States concerned. To make such review possible, the Convention provides in part II for three procedures: a reporting procedure, obligatory upon all States parties (art. 9); a procedure of State-to-State complaints, which is open to all States parties but recourse to which is discretionary (arts. 11, 12, 13 and 16); and an optional procedure, which entered into effect when certain conditions were fulfilled, for complaints by individuals or groups of individuals (art. 14). Essential for the operation of the system of international review devised by the

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[1] Article 1, paragraph 1, of the Convention states:

"1. In this Convention, the term 'racial discrimination' shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."

The text of the Convention appears in annex I.

Convention is the existence of appropriate international machinery. Part II of the Convention meets this requirement by establishing the Committee on the Elimination of Racial Discrimination (arts. 8 and 10) and defining its responsibilities with respect to each of the three procedures mentioned above. In addition, part II of the Convention assigns to the Committee certain advisory responsibilities relating to the attainment of the principles and objectives of the Convention in Trust and Non-Self-Governing Territories and all other territories to which General Assembly resolution 1514 (XV) (concerning the Declaration on the Granting of Independence to Colonial Countries and Peoples) applies (art. 15) as well as the duty to report on all its activities, including its opinions, suggestions and general recommendations, to the General Assembly of the United Nations.

4. Part III of the Convention (arts. 17 to 25) includes the customary "final clauses", covering such matters as signature, ratification, accession and denunciation; entry into force; reservations, revision and settlement of disputes over the interpretation or application of the Convention.

5. It is mainly with the provisions of part II of the Convention that the present study is concerned.

B. Measures of implementation

6. While the articles of what is now part I of the Convention were the product of the labours of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Commission on Human Rights, and the Third (Social, Humanitarian and Cultural) Committee of the General Assembly, the articles of parts II and III, concerning "measures of implementation" and "final clauses", were principally the product of the deliberations of the Third Committee.

7. The drafting of articles providing for "measures of implementation", as well as the decision to include those articles, together with the substantive articles, in one single convention instead of setting them apart in a separate instrument, reflected a widespread conviction in the Third Committee that, without measures of implementation, a convention would be no different from a declaration. It was generally recognized that, even though its provisions would otherwise be legally binding, it was through such measures that a convention could become truly effective.

8. At the same time, however, the debates in the Third Committee during the drafting of the Convention manifested grave concern for safeguarding national sovereignty and also for ensuring that the Convention would be acceptable to the largest possible number of States in order that it might, in due course, be ratified or acceded to by most members of the international community. In other words, the aim was to reconcile the requirements of effectiveness with those of safeguarding sovereignty and attaining universality.

9. It was against that background that the tripartite system of international review outlined above was developed, and received unanimous support in the Third Committee and in the General Assembly.

I. The reporting system

10. The first—and for States parties the only obligatory—component of the system of international accountability and international review built into the Convention is the reporting procedure.

11. Under article 9, paragraph 1, of the Convention, every State party undertakes to submit to the Secretary-General for consideration by the Committee reports on the legislative, judicial, administrative or other measures that it has adopted and that give effect to the anti-discrimination provisions of the articles contained in part I of the Convention. An initial report shall be submitted by each State within one year after the entry into force of the Convention for it; subsequent reports shall be submitted every two years thereafter. In 1988 the Committee agreed that after submission of an initial comprehensive report, States parties might on the next occasion submit a brief updating report (see document A/43/18, paragraph 24 (*c*)). Comprehensive reports should be submitted every four years with updating reports on the intervening occasion. In addition to these reports (which the Committee has come to call "periodic reports"), States parties undertake also to submit other reports "whenever the Committee so requests"; and these have come to be called "supplementary reports".

12. Article 9, paragraph 1, of the Convention also authorizes the Committee to request "further information" from States parties.

13. So much for the obligations of States parties under the reporting system. The corresponding obligations of the Committee are threefold: to "consider" and "examine" the reports; to make "suggestions and general recommendations" based on its examination of the reports and the information received from States parties; and to report on those

activities annually through the Secretary-General to the General Assembly of the United Nations.

14. The practice of the Committee in performing these functions is discussed in chapter III.

2. State-to-State complaints

15. The second component of the system of international accountability and review is provided for in articles 11, 12, 13 and 16 of the Convention.

16. The Convention empowers every State party which "considers that another State party is not giving effect to the provisions of [the] Convention" to "bring the matter to the attention of the Committee". The decision, whether or not to invoke this right, remains part of the sovereign prerogative of every State party; but the competence of the Committee to receive and to act upon communications from any State party concerning the application of the Convention by any other is recognized by all.

17. The Convention makes it clear, however, that the procedure for referring "matters" or "disputes" such as those referred to in article 11 to the attention of the Committee does not supersede other applicable procedures which may be available to the parties concerned. Thus, article 11, paragraph 2, of the Convention envisages the possibility that a "matter" might be "adjusted to the satisfaction of both parties" after being referred to the Committee, "either by bilateral negotiations or by any other procedure open to them"; and article 16 states:

> The provisions of this Convention concerning the settlement of disputes or complaints shall be applied without prejudice to other procedures for settling disputes or complaints in the field of discrimination laid down in the constituent instruments of, or in conventions adopted by, the United Nations and its specialized agencies, and shall not prevent the States Parties from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

18. The functions of the Committee with respect to the complaints procedure consist of:

(1) Transmission of the relevant communications received from one State party to the other State party concerned.

2. "Dealing with" the matter in question. (After receiving from the second State party, within three months, "written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State", the Committee may "deal" with the matter—but

only if, in the mean time, the matter had not been adjusted to the satisfaction of both parties and had been referred again to the Committee by either of them, and only after the Committee "has ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law", provided, however, that the "application of remedies" had not been "unreasonably prolonged".)

(3) Calling upon the States parties concerned to supply any other relevant information.

(4) Consideration of the matter in question, with the participation of representatives of the States parties concerned, if they so desire, without voting rights.

(5) Appointment of an *ad hoc* Conciliation Commission. (The Commission—to which the information obtained and collated by the Committee shall be made available, and which may on its own initiative call upon the States concerned to supply any other relevant information—shall make its "good offices . . . available to the States concerned with a view to an amicable solution to the matter on the basis of respect for [the] Convention". After fully considering the matter, the Commission shall prepare and submit to the Chairman of the Committee a report embodying: (*a*) "its findings on all questions of fact relevant to the issue between the parties" and (*b*) "such recommendations as it may think proper for the amicable solution of the dispute".)

(6) Communication of the report of the *ad hoc* Conciliation Commission to each of the parties to the dispute—which shall, within three months, inform the Chairman of the Committee whether or not they accept the recommendations contained in that report.

(7) Communication of the report of the *ad hoc* Conciliation Commission, together with the declarations of the parties concerned, to the other States parties to the Convention.

19. In this connection, it is relevant to recall the provisions of article 22 of the Convention, which reads as follows:

> Any dispute between two or more States Parties over the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall at the request of any of the parties to the dispute be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.

20. Inasmuch as no State party has invoked article 11, the Committee has had no opportunity to develop its practice of dealing with inter-State complaints. However, at its second session, held in the summer of 1970, the Committee considered its functions under articles 11 to 13 of the Convention in the course of drafting its rules of procedure, and adopted what are now rules 69-79 in the rules of procedure in that regard (A/8027, paras. 24-34 and annex II, part II, sects. XV and XVI).

3. Communications from individuals and groups

21. The third procedure under the system of international accountability and international review provided for in the Convention is the optional procedure laid down in article 14. It relates to "communications from individuals or groups of individuals" within the jurisdiction of a State party "claiming to be victims of a violation by that State party of any of the rights set forth in [the] Convention".

22. The entry into force of the procedure laid down in article 14 is subject to two conditions:

(1) "A State party may at any time declare that it recognizes the competence of the Committee to receive and consider communications" from individuals or groups within its jurisdiction; and "no communication shall be received by the Committee if it concerns a State party which has not made such a declaration". (It may be observed that that declaration "may be withdrawn at any time"; however, "such a withdrawal shall not affect communications pending before the Committee".)

2. "The Committee shall be competent to exercise the functions provided for in [article 14] only when at least ten States parties to [the] Convention are bound by declarations in accordance with paragraph 1." The competence of the Committee to exercise the functions provided for in article 14, paragraph 9, of the Convention became effective on 3 December 1982.

23. Apart from these two conditions, other qualifications are placed upon the operation of the procedure provided for in article 14 of the Convention.

24. Any State party which declares that it recognizes the competence of the Committee to receive communications from individuals or groups within that State's jurisdiction "may establish or indicate a body within its national legal order which shall be competent to receive petitions from individuals and groups of individuals within its jurisdiction who claim to be victims of a violation of any of the rights set forth in

[the] Convention and who have exhausted other available local remedies". Individuals or groups shall have the right to communicate the matter to the Committee only if they have failed to obtain satisfaction from that body; and the Committee may not consider any communication from a petitioner "unless it has ascertained that the petitioner has exhausted all available domestic remedies". (This shall not be the rule, however, "where the application of the remedies is unreasonably prolonged".)

25. Finally, the Committee is prohibited from receiving anonymous communications.

26. When all the foregoing conditions and requirements are met, the Committee may exercise its functions under article 14 of the Convention, as follows:

(1) The Committee shall confidentially bring any communication referred to it to the attention of the State party alleged to be violating any provision of the Convention, but the identity of the individual or group concerned shall not be revealed without his or their express consent. The receiving State shall submit to the Committee, within three months, written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

2. The Committee shall then proceed to "consider" the communication "in the light of all information made available to it by the State party concerned and by the petitioner".

(3) The Committee may make "suggestions and recommendations". If it does, it shall forward them to the State party concerned and to the petitioner.

(4) The Committee shall include in its annual report to the General Assembly of the United Nations: (*a*) a summary of the communications it received and considered; (*b*) "where appropriate", a summary of the explanations and statements of the States parties concerned; and (*c*) a summary of its own suggestions and recommendations, if any.

27. The procedure envisaged in article 14 of the Convention entered into force on 3 December 1982 when the tenth State party made the declaration recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of violations by that State party of any of the rights set forth in the Convention. As at 1 August 1990 14 States parties have made declarations under article 14.

28. The Committee at its 646th meeting (twenty-eighth session), on 26 July 1983, adopted its rules of procedure (rules 80 to 97) for considering communications from individuals or groups of individuals submitted under article 14 of the Convention.

29. The first communication under article 14 of the Convention was received by the Committee at its thirtieth session (1984). At its thirty-second session (1985), the Committee established a working group for the purpose of making recommendations to the Committee regarding the fulfilment of the conditions of admissibility of the communication. At its thirty-fourth session (1987), the Committee took its decision declaring the communication admissible under article 14 of the Convention. At its thirty-sixth session, on 10 August 1988, the Committee adopted its opinion, suggestion and recommendations on the first communication placed before it.

C. Other functions of the Committee

1. In relation to Trust and Non-Self-Governing Territories

30. In addition to the three procedures described so far, and the obligations of States parties and the functions of the Committee relating to them, the Convention assigns to the Committee a fourth principal function, corresponding to which no obligations are laid down on the States parties. This pertains to questions of racial discrimination in Trust and Non-Self-Governing Territories and all other Territories to which the Declaration on the Granting of Independence to Colonial Countries and Peoples applies. The responsibilities of the Committee in this regard are spelt out in article 15 of the Convention.

31. It will be noted that, unlike the other three functions discussed earlier, the responsibilities of the Committee under article 15 are discharged in conjunction with competent bodies of the United Nations and not with States—whether administering Powers or States parties to the Convention.

32. After declaring that—pending the achievement of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples—the provisions of the Convention "shall in no way limit the right of petition granted to these peoples by other international instruments or by the United Nations and its specialized agencies", article 15 of the Convention proceeds to state that the Committee shall receive copies of such petitions as relate to matters covered by the Convention

from the competent bodies of the United Nations which receive and consider petitions from the inhabitants of the territories in question.

33. Moreover, the Convention provides that the Committee shall receive from the competent bodies of the United Nations copies of the reports concerning the legislative, judicial, administrative or other measures directly related to the principles and objectives of the Convention, which are applied by the administering Powers within those territories.

34. In addition, the Convention states that the Committee shall request from the Secretary-General of the United Nations all information relevant to the objectives of the Convention and available to him regarding the territories under consideration.

35. Cognizant of the fact that the terms of the Convention are not in themselves binding upon the United Nations bodies concerned, the General Assembly—after adopting resolution 2106 A (XX), which adopted the Convention and opened it for signature and ratification—proceeded to adopt resolution 2106 B (XX), which: (1) called upon the Secretary-General to make available to the Committee, periodically or at its request, all information in his possession relevant to article 15 of the Convention and (2) requested the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, "and all other bodies of the United Nations authorized to receive and examine petitions from the peoples of the colonial countries", to transmit to the Committee, periodically or at its request, copies of petitions from those peoples relevant to the Convention.

36. Having thus ensured that the Committee would be in receipt of the relevant petitions, reports and other information, article 15 of the Convention proceeds to direct the Committee:

(1) To express opinions and make recommendations, addressed to the United Nations bodies concerned, on the petitions and reports transmitted to it; and

2. To include in its annual report to the General Assembly: (*a*) a summary of the petitions and reports it has received from United Nations bodies and (*b*) a summary of the expressions of opinion and recommendations it has made regarding them.

37. The practice of the Committee so far in discharge of its responsibilities under article 15 of the Convention is discussed in chapter IV.

2. In relation to the United Nations General Assembly

38. The final obligation of the Committee is to keep the General Assembly of the United Nations fully informed of all its activities in exercise of its principal functions under the Convention. This task is accomplished by means of an annual report which the Committee is directed to submit to the General Assembly through the Secretary-General.

39. It is not without significance that the Committee was directed to report on its activities not to a body composed of representatives of the States parties to the Convention but to the General Assembly of the United Nations. For surely it was not unforeseen that some parties to the Convention would not be Members of the United Nations, while some Members of the United Nations would not be parties to the Convention. Under these circumstances, the decision to require the Committee (a treaty body established by an international Convention) to submit its report to the General Assembly—which was not taken lightly or without extensive discussion in the Third Committee, as the drafting history of the Convention shows—must have been intended to carry some implications relating to the status of the Committee. Some of these implications are considered in the next chapter.

40. The mandatory contents of the annual report of the Committee are determined by the Convention as follows:

(1) With regard to the Committee's functions under article 9: the suggestions and general recommendations which the Committee may make, on the basis of its examination of the reports and information received from States parties, "shall be reported to the General Assembly together with comments, if any, from States parties".

(2) With regard to the Committee's functions under article 14: the Committee shall include in its annual report a summary of the communications it receives in accordance with that article and, "where appropriate, a summary of the explanations and statements of the States parties concerned and of its own suggestions and recommendations".

(3) With regard to the Committee's functions under article 15: "The Committee shall include in its report to the General Assembly a summary of the petitions and reports it has received from United Nations bodies, and the expressions of opinion and recommendations of the Committee related to the said petitions and reports."

41. It will be noted, however, that there is no corresponding provision for the Committee to report to the General Assembly on its remaining function—namely, its responsibilities relating to complaints by one State party against another, in accordance with articles 11 to 13 of the Convention. With regard to this function of the Committee, the Convention provides instead that the Chairman "shall communicate the report of the [*ad hoc* Conciliation] Commission and the declarations of States parties concerned to the other States parties to [the] Convention" (art. 13, para. 3, of the Convention).

42. Inasmuch as the Committee has not yet had to deal with any complaints received in accordance with article 11 of the Convention, it has not had an opportunity to examine fully its reporting obligations in that regard. However, when it does, it will probably take into account the following considerations.

43. The language of article 9, paragraph 2, of the Convention—which lays down the Committee's obligation to prepare an annual report and submit it to the General Assembly through the Secretary-General—is quite general: it requires the Committee to report annually "on its activities". The scope of that provision appears to be wide enough to require the Committee to include in its annual report information on all its activities under article 11—including (*a*) the receipt of a communication; (*b*) the transmission thereof to the State party concerned; (*c*) the receipt of written explanations or statements from the State; (*d*) the receipt of a notice that the matter has not been adjusted to the satisfaction of both parties; (*e*) the request for additional information; and (*f*) the consideration of the matter by the Committee. It would appear also that the appointment of an *ad hoc* Conciliation Commission, in accordance with article 12, paragraph 1, of the Convention, would be among the activities on which the Committee is required to report to the General Assembly. (These conclusions, based on the language of the Convention, are in accord with the practice established by the Committee in the eight annual reports it has submitted to the General Assembly since its establishment: for these reports have included information on all the activities of the Committee—including those not covered by the mandatory provisions of articles 9 (2), 14 (8) and 15 (3) of the Convention.)

44. What is less clear, however, is whether the Committee's annual report should also include information on the activities of the *ad hoc* Conciliation Commission in accordance with articles 12 (8) and 13 (1) of the Convention—including its requests for additional information and its findings and recommendations.

45. The drafting history of the Convention may shed some light on the intention of the authors of the Convention with regard to this question.

46. When the Third Committee considered what became of article 13 of the Convention, it had before it an initial draft which did not contain any provisions corresponding to those contained in paragraph 3 of that article as it was finally adopted. A revised text by the sponsors of the original proposal, taking into consideration the various views that had been expressed during the discussion of the original draft, included the following paragraph:

> After the period provided for in paragraph 2 of this article, the Chairman of the Committee shall communicate the report of the Commission and the declarations of States parties concerned related to this report to the Secretary-General of the United Nations for publication.

An amendment was submitted, replacing—at the end of that paragraph—the words "for publication" by the words "for transmission to the General Assembly". An oral amendment was also submitted, replacing the end of draft paragraph 3, beginning with the words "related to this report", by the words, "to the other States parties to this Convention". This oral amendment was accepted by the sponsors; the first amendment was withdrawn; and the text, as orally amended, was then adopted without opposition (document A/6181, paras. 138, 139, 142 and 143). It should be noted, however, that the author of the oral amendment which became part of the final text, explained in proposing his amendment that—

> the report of the *ad hoc* Commission would be communicated only to States parties, while the results of the conciliation would appear in the Committee's annual report (A/C.3/SR. 1356, para. 22).

47. Finally, it should be recalled that, when the Committee was engaged in formulating its rules of procedure governing its action under articles 12 and 13 of the Convention, it chose to follow the wording of article 13, paragraph 3, without further clarification or elaboration. Thus, rule 78 (3) of the Committee's rules of procedure reads:

> After the expiry of the time-limit prescribed in the preceding paragraph, the Chairman of the Committee shall communicate the report of the Commission and any declaration of States Parties concerned to the other States Parties to the Convention.

Chapter II

Composition and status of the Committee

A. Composition of the Committee

48. Article 8 of the Convention provides that the Committee shall consist of "18 experts of high moral standing and acknowledged impartiality elected by States Parties from amongst their nationals who shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as of the principal legal systems". It provides also that "each State party may nominate one person from among its own nationals"; that "the members of the Committee shall be elected for a term of four years" (but that "the terms of nine of the members elected at the first election shall expire at the end of two years"); and that "for the filling of casual vacancies, the State party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals subject to the approval of the Committee".

49. In accordance with article 10 of the Convention, "the Committee shall adopt its own rules of procedure" and "shall elect its officers for a term of two years".

50. The same article states that "the secretariat of the Committee shall be provided by the Secretary-General of the United Nations" and that the meetings of the Committee "shall normally be held at the Headquarters of the United Nations".

51. The Convention specifies that "the States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties". It is implicit, however, that the expenses of servicing the Committee by the Secretary-General shall be borne by the United Nations as part of its regular budget.

52. Each of the stipulations cited in the preceding paragraphs represented a choice—made by the Third Committee of the General Assembly when it considered the draft of part II of the Conven-

tion—between a number of alternatives proposed by Member States; and the cumulative effect of these choices helped fashion the character and determine the status of the Committee. Some of the alternatives rejected by the Third Committee are worth recalling.

53. Some of the proposals submitted to the Third Committee would have had the Convention establish a committee of States parties (or of Member States of the United Nations) instead of a committee of individual experts serving in a personal capacity; or would have designated it as a Good Offices and Conciliation Committee and confined its mandate to the settlement of disputes between States parties concerning the interpretation or application of the Convention; or would have called it "the United Nations Committee on Racial Discrimination". Under some proposals, the Committee would have been composed of 11 members only.

54. Concerning the qualifications for membership in the Committee, some proposals called for use of the neutral word "member" instead of the word "expert"; others, however, called for greater specificity in describing the required qualifications of the experts. One proposal would have specified that the members should "possess the qualifications in their respective countries for appointment to high judicial or social offices", another proposal would have required members of the Committee to possess "acknowledged competence with regard to the problem of the elimination of racial discrimination and of the observance of human rights".

55. The first proposal received by the Third Committee called for the General Assembly of the United Nations to elect the members of the Committee; and that idea was resurrected in the form of an amendment at a later stage in the proceedings.

57. Concerning the nomination of persons to serve as members of the Committee; one proposal would have enabled each State party to nominate up to four persons; other proposals would have relieved the States parties of the restriction to nominate their own nationals only.

57. With regard to expenses, one proposal would have required every "State party, a national of which is elected to membership of the Committee . . . [to] be responsible for the expenses of its expert on the Committee while he is in performance of Committee duties", while another proposal called for all the expenses of the Committee to be borne by the regular budget of the United Nations.

58. Since the first election of members of the Committee in 1969, 70 persons, nationals of 31 States parties, have served on the Committee. The names of these persons and information on their countries of nationality and years of service on the Committee may be found in annex III.

59. The information provided in annex III reflects the degree to which consideration has been given in practice to "equitable geographical distribution" and to "the representation of the different forms of civilization as well as of the principal legal systems" in the election of members of the Committee.

60. Consideration has been given to these factors by the Committee itself also, in the biennial elections of the officers of the Committee (the Chairman, the three Vice-Chairmen and the Rapporteur)—as may be seen from the information provided in annex IV.

61. During the twenty years of the Committee's existence, nine "casual vacancies" have arisen—seven as a result of resignation and two as a result of death. These vacancies were filled in accordance with the procedure laid down in article 8, paragraph 5 (*b*), of the Convention and in rule 13 of the Committee's provisional rules of procedure. Information on these unscheduled changes in the membership of the Committee is provided in the footnotes to annexes III and IV.

62. In this connection, it will be recalled that notification of the first resignation of one of its members was received by the Committee not from the member himself but from his Government. Accordingly, the Committee decided to revise its rules of procedure by adding a new paragraph to rule 13 stipulating that, "except in the case of a vacancy arising from a member's death or disability, the Secretary-General and the Committee shall act in accordance with the provisions of paragraphs 1 and 2 of the present rule only after receiving, from the member concerned, written notification of his decision to cease to function as a member of the Committee". (A/8718, paras. 4, 5 and 34; and A/9018, paras. 28-30.)

63. A related question concerning the temporary inability of a member to participate in the work of the Committee—as distinct from a member's permanent inability to function, or his decision to cease to function, as a member—was considered by the Committee at its first and seventh sessions.

64. At the first session, in the course of the Committee's consideration of its rules of procedure, one member proposed that a rule be included in the provisional rules of procedure to the effect that, when a member of the Committee was unable to attend the whole or a part of a

session, he might, with the consent of his Government, designate an alternate; and that, after the approval by the Committee of such designation, the alternate should have the same status as a member of the Committee, including the right to vote. Several members of the Committee opposed the proposal on the ground that it was not in keeping with the principles of the Convention; and the proposal was withdrawn by its sponsor (A/8027, para. 14).

65. A modified version of that proposal was submitted by another member of the Committee at the seventh session. Under the new proposal--which was introduced as an amendment to the provisional rules of procedure—if a member of the Committee was unable to attend one or more meetings of a particular session, he might, subject to the approval of the Committee, appoint an alternate to take part in the Committee's work. This proposal also was withdrawn, after it drew opposition for being inconsistent with the provisions of the Convention (A/9018, paras. 19-23).

B. Status of the Committee

66. It is clear from the foregoing that the Committee is an autonomous body established under a convention that is nevertheless functionally linked to the United Nations system.

67. That it is an autonomous body and not a subsidiary organ of the United Nations is obvious: it is established by an international Convention; its members are elected by the States parties to that Convention from among their nationals only, and not by a United Nations organ from among the nationals of all Members of the United Nations and their expenses while they are in performance of Committee duties are borne by the States parties, not by the United Nations.

68. The autonomy of the Committee is further attested to by the provision that its members serve, as impartial experts, in a personal capacity—not as government representatives. Once elected, members cannot be dismissed, or replaced without their consent. The Convention confers upon the Committee the power to adopt its own rules of procedure: no directives are provided in the Convention and no other source of directives is indicated. No control over the proceedings of the Committee can be exercised from outside itself.

69. At the same time, the Committee is functionally linked to the United Nations system in a number of ways. The Convention itself was drafted, adopted and opened for signature and ratification by the General Assembly of the United Nations. The secretariat of the Committee is provided by the United Nations Secretary-General. The expenses of servicing the Committee are borne by the United Nations. Before any proposal which involves expenditure is approved by the Committee, the Secretary-General must be consulted in the terms of rule 25. The Committee's meetings are normally held at the Headquarters of the United Nations as provided for in the Convention. The reports on its activities are submitted to, and considered by, the General Assembly of the United Nations. The reports and other information it receives from States parties are submitted through the Secretary-General. Reports, petitions and other information relating to Trust and Non-Self-Governing Territories come to the Committee from other United Nations bodies and from the Secretary-General; they are forwarded to the Committee by virtue of a directive from the General Assembly and not on the strength of the provisions of the Convention; and it is to those bodies that the Committee addresses its expressions of opinion and its recommendations.

70. There is ample evidence in the drafting history of the Convention showing that this complex and somewhat unusual combination of attributes was not unintentional. For one thing, representatives of Member States at the Third Committee were hopeful that ratification of, or accession to, the Convention would in due course render it well-nigh universal. More significantly, the Convention itself was viewed as but a manifestation of the concern of the United Nations for the promotion of respect for human rights and of its struggle for the elimination of discrimination in all its forms, and it was generally recognized that it would be incongruous to separate completely the operation of the Convention from the labours of the United Nations in the field of human rights.

71. Throughout its existence, the Committee has shown itself to be conscious both of its functional links with the United Nations and of the need to safeguard its autonomous status.

72. The Committee has followed very carefully, year after year, the deliberations of the Third Committee (and the resolutions adopted by the General Assembly upon that Committee's recommendation) on the Status of the Convention and on the Annual Report of the Committee. It has asked the Secretary-General to inscribe, automatically and as a matter of course, an item on "Action by the General Assembly on the Annual Report of the Committee" on the agenda of every spring session of the Committee; and the extensive debate conducted by members of the

Committee during the consideration of that item year after year testifies to their concern for enriching the dialogue between the Committee and the Third Committee. Members of the Committee have given careful consideration to the proposals made by representatives of Member States at the Third Committee regarding the methods and procedures of the Committee or the substance of its activities. Whenever proposals seemed feasible or useful, and compatible with the provisions of the Convention, they have been adopted or otherwise benefited from. Whenever suggestions made in the Third Committee appeared to members of the Committee to be impracticable or not fully in accord with the provisions of the Convention, members of the Committee have neither ignored nor summarily rejected them: they have gone to great lengths to explain their negative response; and their reasoning has been reflected in the Committee's annual reports.

73. The Committee has constantly endeavoured to improve the quality of its dialogue with the Third Committee. It has urged that the annual reports of the Committee, which are inscribed on the Third Committee's agenda as a sub-item under a larger item, be considered by the Third Committee separately from the other sub-items. In an effort to make the dialogue between the two bodies more useful, the Committee has suggested that a member appointed by it be invited to participate in the deliberations of the Third Committee on the Committee's annual reports.

74. Furthermore, the Committee has worked in co-operation with the Trusteeship Council and the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, in accordance with the procedure laid down by the Convention in article 15.

75. The United Nations General Assembly in 1973 instituted the Decade for Action to Combat Racism and Racial Discrimination, followed in 1983 by the Second Decade. As part of this programme, it has organized a First and Second World Conference to Combat Racism and Racial Discrimination and has held a series of seminars. As contributions to the Decades, the Committee has nominated members to represent it at these conferences and seminars, and in addition to the 1978 version of the present document, it also published the following studies: CERD: Positive measures designed to eradicate all incitement to, or acts of, racial discrimination. Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, article 4 (CERD/2); and CERD: Teaching, education, culture and information as means of eliminating racial discrimination. Implementation of the International

Convention on the Elimination of All Forms of Racial Discrimination, article 7 (CERD/3).

76. Although such links were not explicitly provided for in the Convention, the Committee has instituted a procedure for co-operation, on a standing basis, with the International Labour Organisation and the United Nations Educational, Scientific and Cultural Organization. In 1976 the Committee suggested that the latter organization try to avoid duplication between the reporting obligations arising from its Declaration on Race and Racial Prejudice and those arising from the Convention.

77. The Committee has actively opposed certain actions which might otherwise have encroached on its statutory autonomy or compromised its status as a treaty body and not a subsidiary of any United Nations organ. On a few occasions, when the effects of some resolutions of the General Assembly designed to apply to subsidiary bodies of that organ were automatically applied to the Committee, by some services of the United Nations Secretariat, without prior notification and consultation—as, for example, in altering the procedures for issuing the summary records of the meetings of the Committee, or changing the venue and dates of some of its sessions—the Committee has endeavoured to bring about corrective action by those concerned, thereby safeguarding and reaffirming the status which the General Assembly designed and the Convention decreed for the Committee (A/31/18, paras. 288-315 and annexes V and VI).

78. On the one occasion on which it apparently deemed it necessary to do so, a subsidiary organ of the General Assembly (the Committee on Conferences) requested and received a legal opinion from the Office of Legal Affairs of the United Nations Secretariat on the status of the Committee. The legal opinion expressed by that Office confirmed that the Committee was not a subsidiary body of the General Assembly but a treaty body, and that the resolutions of the General Assembly did not override the provisions of the Convention (A/31/18, para. 300). This was reaffirmed in 1985 by a statement by the Office of Legal Affairs to the Third Committee of the General Assembly that "the right to give authoritative interpretations of the Convention, and the powers of the Committee thereunder, rested not with the General Assembly, but, in the first instance, with CERD itself, as the body responsible for monitoring compliance with the Convention, and ultimately with the States Parties." (A/C.3/40/SR.46, para. 27).

Chapter III

The Committee's role under the reporting system

79. The obligations of States parties, and the corresponding functions of the Committee, under the reporting system laid down in article 9 of the Convention were outlined in chapter I; it remains for us now to describe the practice developed by the Committee so far in discharge of its tasks with respect to the reporting system.

80. The extent to which the Committee has been engaged in those tasks may be gauged from the fact that, of the 861 meetings held by the Committee during its 37 sessions from 1970 to 1989, 334 were devoted to the examination of reports and other information received from States parties.

81. During that period, 856 reports (consisting of 784 "periodic reports" and 72 "supplementary reports") were received and 810 reports were considered by the Committee: the remaining 46 reports had been received by the Secretary-General before the closing date of the thirty-seventh session, but could not be considered because of the backlog of pending reports. This backlog was due to the disruption of the work of the Committee as a result of failure by a number of States parties to meet their financial obligations under the Convention.

A. Action to ensure the receipt of reports

82. The first difficulty encountered by the Committee in its discharge of its duties under the reporting system—and it is a recurring and continuing difficulty—arises even before the Committee begins to assume those duties: some States parties simply do not send in their reports; and most of those who do, submit them behind schedule. Thus, in its 1989 annual report, the Committee informed the General Assembly that, by the end of its thirty-seventh session (1 September 1989), the Committee had not received 196 reports due before that date (consisting of 195 "periodic reports" and one "supplementary report") and that, of

the 27 reports received during the year under review, only 4 had been received on time while 23 had been submitted after some delay, ranging from a few days to over four years (A/44/18, para. 3). In the preceding year, of 41 reports received, only 4 were submitted on time while 37 were submitted after some delay ranging from a few days to over seven years (A/43/18, para. 38).

83. As early as its second session, the Committee instituted a system designed to ensure a greater measure of compliance by States parties with the provisions of article 9, paragraph 1, of the Convention. That system consists of two steps: sending a reminder to defaulting States and, if that proves ineffective, bringing the matter to the attention of the General Assembly. Rule 66 of the provisional rules of procedure, adopted at the Committee's second session, reads:

> 1. At each session, the Secretary-General shall notify the Committee of all cases or non-receipt of reports or additional information, as the case may be, provided for under article 9 of the Convention. The Committee, in such cases, may transmit to the State Party concerned, through the Secretary-General, a reminder concerning the submission of the report or additional information.
>
> 2. If even after the reminder, referred to in paragraph 1 of this Rule, the State Party does not submit the report or additional information required under article 9 of the Convention, the Committee shall include a reference to this effect in its annual report to the General Assembly.

(It should be noted that the reminders under reference are in addition to the reminders which the Secretary-General automatically sends to States parties on his own initiative before their reports fall due.)

84. From the second to the thirty-seventh sessions of the Committee, 3,368 reminders were sent to States parties referring to "periodic reports" which they had failed to submit. The numbers of reminders sent out, year by year, were as follows:

Year	*Reminders*	*Year*	*Reminders*
1970	6	1980	161
1971	5	1981	191
1972	6	1982	247
1973	9	1983	202
1974	15	1984	233
1975	38	1985	340
1976	41	1987	553
1977	49	1988	567
1978	62	1989	543
1979	100		

85. The following details may reveal the extent to which some States parties have neglected their reporting obligations: the Committee has sent 52 reminders to each of two States parties. Nevertheless, the initial to the sixth periodic reports of those States had not been received by the end of the thirty-seventh session. To one State party 73 reminders had been sent, and the fourth to tenth periodic reports of that State have not yet been received. Another State party was sent 31 reminders and yet the second to the sixth periodic reports of that State have not been submitted. Another State party was sent 25 reminders and its third to seventh periodic reports have not yet been submitted. Full particulars on the situation relating to these States parties—and others, to which fewer reminders were sent—have been included in the successive annual reports of the Committee.

86. At its tenth session, the Committee included in its first decision on the Decade for Action to Combat Racism and Racial Discrimination (decision 2 (X)) a recommendation to the General Assembly—

> To make an appeal to all States Parties to the International Convention on the Elimination of All Forms of Racial Discrimination to co-operate without exception to the fullest possible extent with the Committee on the Elimination of Racial Discrimination, in particular with regard to compliance with the requirements of article 9 of the Convention (para. 1 (*a*)).

87. At its twelfth session, the Committee decided to follow a more direct approach. It authorized its Chairman to invite the permanent representatives of five States parties to meet with him during the session so that he could ascertain the reasons for the failure of their Governments to submit their initial reports, despite the reminders sent to them (A/10018, para. 70).

88. At its twenty-fifth session, the Committee authorized its Chairman to address personal letters to the Governments of three States parties, which had not submitted any report at all since the entry into force of the Convention in respect of those States, requesting them to submit their overdue reports in one consolidated document by 30 June 1982 for consideration by the Committee at its twenty-sixth session (A/37/18, para. 45 (*b*)). At the same session, the Committee adopted its general recommendation VI (CERD/C/94) in which it invited the General Assembly to take note of the situation and to use its authority in order to ensure that the Committee could more effectively fulfil its obligations under the Convention. By the closing date of the thirty-seventh session (1989) of the Committee, no report had been received from two of those States parties. At its thirty-first session, the Chairman informed the Committee that, in accordance with the decision taken by officers of the

Committee on 4 March 1985, he had met the representatives of four States parties, whose periodic reports had been overdue for a period of from seven to nine years, and requested them to draw their Governments' attention to the Committee's concern that they were so far behind in submitting their reports even though over 12, and in some cases 16, reminders had been sent to them (A/40/18, para. 43). By the closing date of the thirty-seventh session of the Committee, no report had been received from three of those States parties, despite the fact that over fifty reminders had been sent.

89. At its thirty-sixth session, the Committee decided to endorse the proposal made at the eleventh (emergency) meeting of States parties to the Convention in respect of the periodicity of reporting under article 9, paragraph 2, of the Convention. It agreed as a general practice that, after the submission of initial comprehensive reports to the Committee, States parties would submit further comprehensive reports on every second occasion thereafter, when reports were due, i.e. every four years, and that they would submit brief updating reports on each intervening occasion when reports were due under the Convention (A/43/18, para. 24 (*c*)).

B. Some misconceptions about reports

90. Other difficulties encountered by the Committee in the exercise of its functions under the reporting system, pertain to the scope and contents of the reports received from States parties.

91. One group of difficulties consists of those which have resulted from certain misconceptions about the nature and purpose of the reports called for in article 9 of the Convention.

92. The most extreme of these misconceptions is the apparent belief that, if racial discrimination "does not exist" in a given country, the Government is under no obligation to submit a report. Another variant of that misconception is the belief that, if an initial report is submitted and no new measures are adopted in the following two-year period, the State party need not submit its second periodic report. The Committee has strongly disagreed with this reasoning. It has invited the attention of the States parties concerned to the mandatory character of the provisions of article 9, paragraph 1, of the Convention, regarding the submission of reports—including the time-table laid down for their submission. The Committee has maintained that communications from States parties stating that, for the reasons mentioned above, they were under no obliga-

tion to submit reports were in fact "non-reports" and did not satisfy the requirements of article 9 of the Convention.

93. Another misconception manifested in some of the reports received by the Committee consists of the belief that, if racial discrimination "does not exist" on the territory of a reporting State, that State is under no obligation to adopt measures giving effect to the provisions of the Convention. The Committee has maintained that this belief rests upon a misreading of the intent and letter of the Convention: the provisions of part I of the Convention, which establish the anti-discrimination obligations of States parties, aim not only at coping with existing practices of racial discrimination but also at guarding against such practices in the future. The Committee has expressed its views on the matter in three general recommendations. In general recommendation II, it reaffirmed that an earlier request it had addressed to States parties to supply information on the measures giving effect to the provisions of all the clauses of articles 2 to 7 of the Convention had been in fact addressed "to all States parties without distinction, whether or not racial discrimination exist[ed] in their territories". In general recommendation I, it focused its attention on one specific article. Having found, on the basis of its consideration of reports received from States parties, that "the legislation of a number of States parties did not include the provisions of article 4 (*a*) and (*b*) of the Convention", the Committee asserted that the implementation of those provisions was "obligatory under the Convention for all States parties"; and it accordingly recommended "that the States parties whose legislation was deficient in this respect should consider, in accordance with their national legislative procedures, the question of supplementing their legislation with provisions conforming to the requirements of article 4 (*a*) and (*b*) of the Convention". And in general recommendation V, the Committee declared that "the obligations under article 7 of the Convention, which are binding on all States parties, including States which declare that racial discrimination is not practised on the territories under their jurisdiction, must be fulfilled by them".[2]

94. The Committee has run into yet another misconception in some of the reports it has received, stemming from the belief that, if under the legal system of the reporting State the Convention had become part of the supreme law of the land, that State was not required to take any further legislative action in order to give effect to the provisions of the Convention. The Committee has reasoned otherwise. It has noted that, while the

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[2] The texts of these general recommendations appear in annex V.

provisions of some articles of the Convention might be self-executing, the provisions of others were not. Thus, article 4 requires express legislation establishing certain acts as "offences punishable by law" and prescribing penalties for them; and article 7 requires mandatory action in the fields of teaching, education, culture and information by every State party.

95. The Committee has responded in the same manner to a similar misconception—stemming from the apparent belief that, if the Constitution of the reporting State condemns racial discrimination, no further action by that State is required under part I of the Convention.

C. Partial reports

96. These misconceptions and the shortcomings to which they have given rise—serious though they may be—have affected only a relatively small number of reports. Some misconceptions have been cleared up in the dialogue with the Committee. More serious has been the problem of incomplete reports.

97. Although article 9, paragraph 1, of the Convention specifically states that the reports submitted by States parties should cover relevant "legislative, judicial, administrative or other measures", many reports have furnished information on legislative measures only and have neglected judicial, administrative and other measures. The Committee has therefore covered these matters in its Revised General Guidelines of 1983.

98. Even when they focus on legislative measures, some reports fail to furnish the texts of the relevant legislative provisions, contenting themselves with mentioning certain enactments or paraphrasing their provisions. In many cases, however, prodding by the Committee has elicited from responsive and co-operative reporting States more complete texts of relevant legislation.

D. "Unsatisfactory" reports

99. The problem of incompleteness of the information contained in reports of States parties has challenged the Committee since its first session. The Committee has resorted to a number of procedures to deal correctively with it.

100. At its first session, on 28 January 1970, the Committee adopted a communication embodying guidelines for the preparation of reports and requested the Secretary-General to send it to all States parties. The communication listed, and organized under four headings and several subheadings, all the obligations stemming from all the clauses of articles 2 to 7 of the Convention; and States parties were urged to supply information on the legislative, judicial, administrative or other measures corresponding to each of the subheadings. States parties were also asked to supply information regarding "national procedures within their countries to implement those measures" and "the practice of the Courts relating to cases of racial discrimination".

101. In that communication, the Committee also expressed the hope that "States parties which have already submitted their first reports" would "supplement them by additional information" as outlined in the communication (A/8027, paras. 40-44 and annex III A).

102. At its second session, the Committee decided to send out another general communication to States parties, again requesting each State party which had already submitted its initial report to re-examine it, in comparison with the check-list of categories of information requested in the communication of 28 January 1970, and to furnish the Committee with the missing information (A/8027, para. 49 and annex III B).

103. At its third session, the Committee initiated the practice of formally classifying the reports it examined as "satisfactory" or "unsatisfactory" on the basis of the completeness of the information contained in them. It explained that it considered a report "unsatisfactory" when "significant categories of information were either totally lacking or insufficiently provided" in it (A/8418, paras. 29 and 30). This practice—which was prompted by the incompleteness of many of the reports received by the Committee, and which aimed at eliciting more complete information from States parties—continued to be followed until the tenth session. The decision at that session to abandon that practice was explained in the fifth annual report of the Committee in the following words:

> At its tenth session, the Committee reconsidered the practice which it had followed—though not without qualms—since its third session (A/8418, paras. 24-36) of classifying reports as "satisfactory" or "unsatisfactory". It came to the conclusion that that practice had outlived its earlier usefulness and that, in any case, it was becoming increasingly less necessary than it had once been. It may be recalled that, from the beginning, the classification of reports as "satisfactory" or "unsatisfactory" had been intended to serve as a means of indicating the relative completeness or incompleteness of the information in each report and not as a judgement that the reporting State complied or failed to comply with the provisions of the Convention. The classification in question, in other words, was designed to indicate the degree of fulfilment of the reporting requirements laid down in

article 9, paragraph 1, of the Convention and not the degree of fulfilment of the anti-discrimination requirements laid down in articles 2 to 7 of Part I of the Convention. The danger was always present, however, that what was intended to be a formal evaluation of a report might be misconstrued as a substantive evaluation of the situation in the territory of the reporting State relating to the elimination of racial discrimination. But that potential danger became greater as many of the reports received by the Committee began to fulfil more completely the reporting requirements of article 9, paragraph 1, of the Convention and as the consideration of those reports began, as a consequence, to focus on the substantive significance of the extensive information provided in reports while proportionately less attention needed to be paid to the question of the completeness of the information supplied. At that stage, indeed, the practice of judging reports as "satisfactory" or "unsatisfactory" became not only less necessary and perhaps less useful than it had been theretofore, but also more likely to mislead. (A/9618, para. 79.)

104. During the period when it was following the practice of classifying reports on the basis of the completeness or incompleteness of the information they contained, the Committee normally followed up its decision that a given report was "unsatisfactory" by a request, addressed to the reporting State, for additional information to be provided either in a supplementary report or in the next periodic report. The competence of the Committee to request further information was established in the final sentence of article 9, paragraph 1, of the Convention; its practice of indicating the manner as well as the time in which such information shall be supplied was based on rule 65 of the provisional rules of procedure, which reads:

If the Committee decides to request an additional report or further information from a State Party under the provisions of article 9, paragraph 1, of the Convention, it may indicate the manner as well as the time within which such additional report or further information shall be supplied and shall transmit its decision to the Secretary-General for communication, within two weeks, to the State Party concerned.

105. The efforts of the Committee to ensure greater informativeness and completeness in the reports of States parties took other forms as well.

106. Whenever it noted that information on the implementation of a specific article of the Convention was generally lacking in many reports, the Committee brought the matter to the attention of all States parties through a general recommendation or a decision—calling upon them at one and the same time to comply with the requirements of that article and to furnish information on such compliance. Thus, with regard to article 4 of the Convention, the Committee adopted general recommen-

dation I and decision 3 (VII); and, with regard to article 7, it adopted general recommendation V.[3]

107. In other general recommendations and decisions, the Committee sought to encourage States parties to supply information which—while not, strictly speaking required under article 9 of the Convention—was deemed by the Committee to be either useful and helpful to it in the discharge of its own obligations or otherwise highly relevant to the principles and objectives of the Convention. General recommendation IV represented an effort to obtain information of the former kind (on the demographic composition of the reporting State); general recommendation III and decision 2 (XI) aimed at eliciting information of the latter type (on relations with racist régimes).[4]

108. In 1980 the Committee adopted a set of Revised General Guidelines concerning the form and content of reports by States parties into which were incorporated in 1982 additional guidelines for the implementation of article 7.

E. Participation of representatives of States parties

109. Perhaps the greatest success of the Committee, in its endeavour to secure more complete information from States parties, was achieved as a result of the practice it inaugurated at its sixth session in 1972, following the adoption of an amendment to its provisional rules of procedure by the addition of a new rule (A/8713, para. 23). The new rule 64 reads:

> The Committee shall, through the Secretary-General, notify the States Parties (as early as possible) of the opening date, duration and place of the session at which their respective reports will be examined. Representatives of the States Parties may be present at the meetings of the Committee when their reports are examined. The Committee may also inform a State Party from which it decides to seek further information that it may authorize its representative to be present at a specific meeting. Such a representative should be able to answer questions put to him by the Committee and make statements on reports already submitted by his State, and may also submit additional information from his State.

110. In 1979 the Committee clarified the procedure envisaged by this new rule by adopting decision 1 (XIX), as follows:

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[3] The texts of these general recommendations and decisions appear in annex V.

[4] *Ibid.*

When adopting a decision concerning information supplied by a State Party to the International Convention on the Elimination of All Forms of Racial Discrimination relating to conditions in its territory, it will follow the procedure of asking the representative of the State Party concerned to withdraw from the Committee table as soon as consideration of the report has been completed; the representative may, if he wishes, be present when the Committee's decision is announced.

This formulation leaves open the possibility that the Committee might choose to go into a private session before announcing that decision.

111. Most States parties have availed themselves of the opportunity provided by the practice described in paragraph 109. The experience of the Committee has been gratifying. If the new practice mentioned in paragraph 11 above develops, it will be helpful if States parties are represented when comprehensive reports are examined.

112. Although the Committee had envisaged, when it adopted rule 64 A of its provisional rules of procedure, that the representatives sent by the reporting States to participate in the Committee's examination of their reports would be able to answer questions put to them by the Committee, not all the representatives sent by States parties have in fact been able to perform that function. However, some States parties have sent to the Committee highly qualified experts who have provided it with useful information and enlightening explanations. On the whole participation of the representatives of the reporting States has helped to expedite considerably the process of obtaining additional information by the Committee and has made possible the rise of a meaningful dialogue between the Committee and the States parties concerned.

F. Evaluation of measures adopted by States parties

113. At the fifth session, the Committee adopted new rule 67 of its provisional rules of procedure, by virtue of which the process of consideration of reports from States parties was systematized and the Committee's pursuit of completeness and greater informativeness in those reports was placed in its proper context. New rule 67 reads as follows:

1. When considering a report submitted by a State Party under article 9, the Committee shall first determine whether the report provides the information referred to in the relevant communications of the Committee.

2. If a report of a State Party to the Convention, in the opinion of the Committee, does not contain sufficient information, the Committee may request that State to furnish additional information.

3. If, on the basis of its examination of the reports and information supplied by the State Party, the Committee determines that some of the obligations of that State under the Convention have not been discharged, it may make suggestions and general recommendations in accordance with article 9, paragraph 2, of the Convention.

114. As this rule implies, the receipt of information from States parties on the measures they have adopted which give effect to the anti-discrimination provisions of articles 2 to 7 of the Convention is only a means to enable the Committee, as the competent international machinery under the Convention, to ascertain the extent to which the reporting State has complied with those provisions and to evaluate the progress it has achieved in the elimination of racial discrimination in accordance with the terms of the Convention. For that is indeed an essential element of the reporting system. And the endeavours of the Committee to obtain the required information to the fullest possible extent are no more than a first step in the direction of the goal of the reporting system—a first step made necessary, in the first instance, by the failure of many States parties to supply fully the required information without persistent prodding from the Committee.

115. A review of the performance of the Committee at its first 37 sessions, however, would show that, while it has crossed the first step (represented by paras. 1 and 2 of rule 67), it has not in fact arrived at the next and more important step (represented by para. 3 of rule 67).

116. Over the years, members of the Committee have on many occasions noted non-compliance, or less-than-full compliance, by some States parties with some of the anti-discrimination provisions of articles 2 to 7 of the Convention. But the Committee as such has not formally pronounced itself to that effect with reference to any particular State party. Nor have the general recommendations made by the Committee (with the exception of the statement in general recommendation I that "the legislation of a number of States parties did not include the provisions envisaged in article 4 (*a*) and (*b*) of the Convention") been made in accordance with the intent of paragraph 3 of rule 67.

G. "Suggestions and general recommendations"

117. The Committee's perception of its competence to make "suggestions and general recommendations based on the examination of reports and information received from the States parties" is clouded by some ambiguities. Consensus has been lacking with regard to three basic issues: (1) Can the Committee make "suggestions", as distinct from

"general recommendations", relating to specific situations in particular States parties? (2) To whom may the "suggestions and general recommendations" be addressed? To the States parties as a whole? To particular States parties? Or to the General Assembly (to which they should, in all circumstances, be reported)? (3) To what extent do the words "based on the examination of the reports and information received from the States parties" restrict the competence of the Committee to take account of information not supplied by the States parties in their reports? Working compromises—generally acceptable to most members—have evolved in the Committee over the years with regard to these issues; but no precise formulation of a clear understanding of the intent of the Convention in these respects has been formally adopted by the Committee.

1. "Suggestions": general or particular

118. Regarding the first issue, it is relevant to recall that, when the Third Committee was considering what became article 9 of the Convention, it had before it two antithetical amendments: to delete the words "suggestions and" from the first and second sentences of paragraph 2; and to delete the word "general" before the word "recommendations" in both sentences. Under the first proposal, the Committee would have been empowered to make "general recommendations" only; under the second, it would have had the competence to make "suggestions" and "recommendations" without restrictions as to the generality or specificity of either. Both amendments were decisively rejected (A/6181, paras. 113 and 114).

119. It would appear, then, that by retaining the word "suggestions" and keeping it free of qualification as to generality or specificity, the authors of the Convention wanted to avoid language that might have inhibited the Committee from adopting "suggestions" relating to particular cases. On the other hand, by retaining the qualification "general" in relation to the "recommendations" which the Committee may make, the Third Committee appears to have intended that the competence of the Committee to "recommend" was to be exercised only in situations of general relevance.

2. To whom addressed

120. In the practice of the Committee based on article 9, paragraph 2, of the Convention and on rule 67 of the provisional rules of

procedure, five general recommendations[5] made during the period under review have been directed at, and communicated to, the States parties, and reported to the General Assembly; but all have dealt with the information which the Committee requested, or invited, States parties to include in their reports and not with the substantive questions arising from compliance or non-compliance with the anti-discrimination provisions of the Convention (except, perhaps, for the second paragraph of general recommendation I, to which reference has already been made and which recommended that the States parties whose legislation was deficient with respect to the provisions envisaged in art. 4, paras. (*a*) and (*b*), of the Convention should "consider, in accordance with their national legislative procedures, the question of supplementing their legislation with provisions conforming to the requirements" of that article. On the other hand, several decisions (which will be discussed in section I of the present chapter) have been adopted by the Committee on the basis of its examination of reports received from States parties, and they have been directed at and addressed to the General Assembly. No suggestions have been directed at or addressed to individual States parties, however, except for decisions requesting additional information.

3. Sources of information

121. The stipulation that such "suggestions and general recommendations" as the Committee may make should be "based on the examination of the reports and information received from the States parties" raises the question of whether the Committee was precluded from taking account of other information which might be available to it—or to its members—from other sources. The same question arises also in connection with the Committee's "consideration" or "examination" of the reports, and not only in connection with the "suggestions and general recommendations" which the Committee may or may not decide to make regarding them.

122. By the sixth session, when representatives of States parties began to participate in the Committee's consideration of their Governments' reports, some members of the Committee had felt that that question should be considered as a topic in its own right. Accordingly, an amendment to the provisional rules of procedure was proposed; it would have added a new rule, stating:

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[5] The texts of these general recommendations appear in annex V.

in the consideration of reports submitted to the Committee pursuant to article 9 .... members of the Committee may raise any matter relevant to the situation described in the documents before the Committee or related to the implementation of the Convention in the territory of the State party concerned.

123. Supporters of the proposal argued that, in examining reports from States parties, a body of experts could not be expected to abdicate its expertise; that the Committee could not operate effectively if it disregarded information that had become common knowledge, or that emanated from reliable and official sources (such as governmental publications, law reports, official gazettes, or reports of debates in legislative bodies), or that was contained in documents of the United Nations and its specialized agencies; that the Convention did not prohibit such a practice; and that the Committee's practice until then indicated that members of the Committee had occasionally acted in the manner proposed in the draft amendment. They concluded that members of the Committee could and should use any relevant information available to them in order to discharge properly and adequately their functions under article 9 of the Convention.

124. Opponents of the draft amendment maintained that the Convention restricted the sources of information available to the Committee, for the purposes of its work under article 9, to reports submitted by States parties. And they asserted that the proposed amendment would in fact enlarge the competence of the Committee and as such would, if adopted, be tantamount to a purported revision of the Convention disguised as an amendment to the Committee's provisional rules of procedure.

125. Other members thought that the draft amendment was in accord with some of the practice of the Committee and was intended to expand the sources of information available to it; but they were dubious about the wisdom of adopting an amendment which might introduce a rigid element into the Committee's procedures.

126. In view of the inability of the members of the Committee to arrive at a consensus, the author of the draft amendment withdrew his proposal and the Chairman stated that "the Committee would continue the practice it had followed to date allowing members to use any information they might have as experts" (A/8718, paras. 27-33).

127. This question engaged the attention of the Committee again, but in a different context. It was considered in connection with two communications received from the International Labour Organisation (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO), in which those organizations expressed a desire to co-

ordinate their work as closely as possible with that of the Committee with regard to the implementation of the Convention in their respective spheres of competence. Addressing the Committee at its sixth session on behalf of both organizations, the representative of UNESCO expressed the interest of the two organizations in "active co-operation" with the Committee, emphasizing in particular two aspects of such co-operation: participation by the representatives of ILO and UNESCO in the Committee's deliberations on *all* issues of mutual concern and on a regular basis: and the transmission of information in written form to the Committee, including information relating to the Committee's work under article 9 of the Convention.

128. Some members of the Committee expressed the view that the Convention categorically precluded the participation of anyone else in the Committee's examination of reports from States parties under article 9 of the Convention, as well as the receipt by the Committee of written material relating to that article from any source other than the States parties directly concerned. They stated that they would endorse the procedure, whereby the Secretary-General would be authorized to circulate written material from ILO and UNESCO, relative to article 9, to members of the Committee (and not to the Committee itself), only on the understanding that such material would be received by members in their personal capacity, would be for their personal information and would not be placed formally before the Committee.

129. In its decision 2 (VI) on the subject of co-operation with the ILO and UNESCO, the Committee *inter alia* authorized the Secretary-General to distribute written statements, relating to article 9 and submitted by those organizations to the members of the Committee, and to invite representatives of those organizations to "attend the meetings of the Committee"—thus withholding consent to the idea of participation by those representatives in the Committee's consideration of reports from States parties under article 9 as well as the idea of distributing to the Committee as such written statements from those organizations relevant to article 9 of the Convention (A/8718, paras. 122 to 132 and decision 2 (VI)).

130. Since those debates at the sixth session, the practice of the Committee has remained substantially the same as it had been before. In their examination of States' reports, members have referred to, commented upon, or inquired about, matters concerning which the reports in question were silent or perfunctorily informative—so long as they had a direct bearing on the implementation of the anti-discrimination provisions of the Convention. And relevant information in the public domain

has been interwoven into the observations they have made or the questions they have put to representatives of the reporting States participating in the discussions. Thus, relevance to the implementation of the anti-discrimination provisions of the Convention has remained the decisive criterion: actual reference in the reports under consideration to a given question has been less crucial as a factor in determining whether or not that question could be raised in the Committee.

131. One type of question has been raised so repeatedly as to be worthy of special mention. References to anti-discrimination provisions of the national constitutions of the reporting States have been a common feature of most reports received by the Committee; less common, however, has been the practice of informing the Committee that some of those provisions may not have been actually in force at the time a report was submitted or whether any safeguards had been available when the constitutions were totally or partially suspended. Members of the Committee have not felt that the silence of the reports concerning such vital matters should inhibit them from inquiring about the actual situation when their own knowledge gave them reason to raise such questions.

H. Reports by States parties responsible for dependent territories

132. States parties which administer dependent territories are responsible for the implementation of the Convention in those territories and should report on this under article 9. If, as has happened (CERD/C/SR.77-78 and CERD/C/SR.32-33), the Committee considers information about such territories under article 15, it is limited by article 15, para. 2 (*b*), to reports received from the competent bodies of the United Nations. The representative of the reporting State is then denied the opportunity to speak on this section of the report and to answer any questions at the time they are asked.

I. Information on territories of States parties occupied or controlled by States not parties to the Convention

133. Ever since its third session, the Committee has been seized on several occasions with information from reporting States to the effect that racial discrimination was being practised on parts of their national territory outside their effective control as a result of occupation or other forms of *de facto* control by States not parties to the Convention.

134. On two aspects of such situations there has never been disagreement among members of the Committee: that the political or other disputes leading to, or deriving from, the occupation or *de facto* control of the territories in question lay outside the competence of the Committee; and that the Committee could not be indifferent to reported practices of racial discrimination on the territory of States parties to the Convention.

135. Differences of opinion have arisen among members of the Committee, however, over such questions as the receivability of the information concerned under article 9 of the Convention and the competence of the Committee to take any action at all—or, if competent, the kind of action it could take—with regard to the information before it, in discharge of its obligations under article 9. The fact that States occupying or controlling the territories under consideration had not at the relevant time ratified or acceded to the Convention created other problems; the Committee lacked the competence to request them for information and was prohibited by the Convention from inviting, or permitting, their representatives to participate in its examination of the reports before it.

136. Although the first cases of this kind that came before the Committee gave rise to extensive debates on these and other issues during the third and fourth sessions a greater measure of agreement had been reached by the seventh session. Since the tenth session, when the question was next discussed, all the decisions adopted by the Committee on these issues have been taken by consensus.

137. The cases to which the preceding paragraphs refer involved the Panama Canal Zone, Cyprus and—before the ratification of the Convention by Israel—the Golan Heights, the West Bank of the River Jordan and the Sinai Peninsula.

138. In the decisions it adopted regarding the reports on those territories, the Committee has: requested further information; asked the reporting State to keep it informed on future developments; taken note of the information before it; taken note of relevant resolutions adopted by competent organs of the United Nations; taken note of relevant reports of United Nations bodies; expressed its concern; expressed its hope for the restoration of certain basic human rights; drawn the attention of the General Assembly to the information at hand; asked the General Assembly to take certain specified steps; and/or asked the General Assembly to ensure that no demographic or other changes which have the effect of establishing racial discrimination are brought about in the territories concerned.

139. The table below provides particulars on the discussions in, and decisions of, the Committee relative to each of the territories under consideration.

140. In this connection, it should be noted that, at its fifth session, the Committee considered a proposal to include in the provisional rules of procedure a new rule by virtue of which, if a State party submitted a report or information under article 9 concerning measures affecting its territory but taken by another State party, the Committee should inform the reporting State that the procedure under article 11 was applicable. The proposal further provided that, if such information referred to measures taken by a State not party to the Convention, the matter should not be considered by the Committee unless the provisions of article 15 of the Convention applied.

141. Several members of the Committee opposed the proposal, arguing that it went beyond the provisions of the Convention and was tantamount to an amendment thereto. They recalled that the Convention left the initiative of invoking article 11 to the States parties themselves, and suggested that, by deciding at what stage and in what circumstances a State party should invoke article 11, the Committee would be encroaching on that State's prerogatives.

142. A revised version of the proposal, submitted in the light of the discussion, was put to the vote and rejected by the Committee (A/8718, para. 25).

Territory	*Summary of the discussion in the Committee*	*Decision(s) adopted*
Panama Canal Zone	A/8418, paragraphs 61-72	3 (IV)
	A/9018, paragraphs 212-215	—
	A/9618, paragraphs 237-239	—
	A/32/18, paragraphs 198-201	2 (XV)
The Golan Heights	A/8418, paragraphs 37-45	1 (III)
	A/8418, paragraphs 73-83 and 89-96	4 (IV)
	A/9018, paragraphs 116-120	4 (VII)
	A/9618, paragraphs 205-207	1 (X)
	A/32/18, paragraphs 109-111	1 (XV)
	A/36/18, paragraphs 168-173	No decision adopted
	A/39/18, paragraphs 207-211 and 217	No decision adopted
Cyprus	A/10018, paragraphs 87-90	3 (XI) and 1 (XII)
	A/31/18, paragraphs 65-68	Decisions of 2 April 1976 and 11 August 1976
	A/32/18, paragraphs 321-323	3 (XVI)

Territory	*Summary of the discussion in the Committee*	*Decision(s) adopted*
Cyprus (*continued*)	A/35/18, paragraphs 233-245	1 (XXI)
	A/38/18, paragraphs 82-96	1 (XXVII)
The West Bank of the River Jordan	A/32/18, paragraph 283	1 (XVI)
The Sinai Peninsula	A/32/18, paragraph 278	—

J. Working methods of the Committee

143. The procedure followed by the Committee in its consideration of reports and other information from States parties may now be described.

144. At the outset, the representative of the reporting State is given an opportunity to make an introductory statement. Some representatives avail themselves of this opportunity to introduce their Governments' reports and perhaps also to summarize them or refer to their highlights. Often, the information in the report is updated by the reporting State's representative at that stage.

145. All members of the Committee wishing to take part in the consideration of the report before them then proceed to make the observations and the inquiries they wish to address to the representative of the reporting State.

146. Where appropriate, the representative may, at his own initiative or at the request of the Chairman, intervene in the course of the debate to clarify specific points.

147. When all members of the Committee wishing to do so have made their statements, the representative of the reporting State is given an opportunity to comment on the observations made, and to answer questions raised, in the course of the discussion. Normally, he would assure the Committee that fuller replies or observations would be included in his Government's next report.

148. Members of the Committee may then make additional statements—seeking further clarification or making new observations, or clarifying observations or questions made earlier in the discussion. The representative of the reporting State also has an opportunity to respond again.

149. Normally, this would conclude the consideration of the report before the Committee. However, when a report gives rise to some controversy, the Chairman may highlight the issues or summarize the relevant points of view. Occasionally, the Chairman may make a formal statement on behalf of the Committee, after due consultation with its members. And, when a member feels that the Committee should adopt a formal decision, he places his proposal before the Committee; and it is acted upon in accordance with the normal procedure. Or the Chairman may appoint a working group, or else ask the Rapporteur, to prepare a draft decision in the light of the discussions.

150. When a report is considered without the participation of a representative of the reporting State, the Committee may decide to address a communication to that State, bringing to its attention the relevant summary records and perhaps also highlighting the questions concerning which further action by that State may be indicated. The text of the draft communication, prepared by the Rapporteur, is placed before the Committee for consideration and adoption before transmission.

151. A summary of the observations made and questions raised by members of the Committee and of the comments and replies made by the participating representative of the reporting State is included in the Committee's annual report to the General Assembly, together with the texts of the formal statement made by the Chairman on behalf of the Committee, the decisions adopted by the Committee, and the communication approved by the Committee, if any.

152. The time-consuming procedure described in the preceding paragraphs began to cause members of the Committee some concern as early as the sixth session, held in the summer of 1972. By then, the number of States parties had risen from 37 to 65 and the number of reports due from States parties had proportionately multiplied. The size of the reports and the volume of information they contained had increased considerably—partly as a result of the Committee's persistent urging for greater informativeness, and partly in consequence of the adoption of general recommendation II in which the Committee emphasized that States' reports should include information corresponding to all the subheadings listed in its initial communication of 28 January 1970. And the Committee had just inaugurated the practice of inviting reporting States to send representatives to participate in its consideration of their reports—a practice which facilitated more thorough examination of reports (A/8718, paras. 104 and 105).

153. Several time-saving methods were suggested during the discussion of the question at that session and again at the tenth session, held in the summer of 1974, when the Committee returned to the subject. The proposed methods included: assigning a number of reports to each member, who would be principally responsible for evaluating the reports assigned to him; dividing the Committee into small working groups, which would informally hold preliminary discussions of the reports assigned to them and submit their findings, observations and questions to the Committee in plenary meetings; and placing a time-limit on the statements made by any member on any report. Similar proposals were discussed during the Committee's thirty-third and thirty-sixth sessions.

154. On this last occasion the Committee agreed that country rapporteurs be appointed from amongst its members who would be responsible for a thorough study and evaluation of each State report, for preparing a comprehensive list of questions to be put to the representative of the reporting State and for leading the discussion in the Committee when the report was taken up for consideration. It was understood that other members of the Committee would not be precluded from raising specific questions of interest to them or from making comments. This procedure was applied on an experimental basis at the thirty-seventh session. The Committee also agreed to the differentiation of comprehensive and updating reports referred to in paragraph 11 above.

K. General distribution of reports

155. Until its ninth session, held in the spring of 1974, the Committee observed the provisions of rule 62 of its provisional rules of procedure, which *inter alia* restricted the distribution of reports received from States parties to members of the Committee, to all States parties to the Convention, and, "as may be determined by the Committee, to others directly concerned".

156. At its ninth session, however, the Committee decided that "reports and other information submitted by States parties under article 9 of the Convention will be classified as documents for general distribution *if the States parties so request*" (A/9618, paras. 21-30 and decision 1 (IX)).

157. At its sixteenth session, held in the summer of 1977, the Committee amended that decision to read as follows: "Reports submitted by States parties under article 9 of the Convention will be classified as

documents for general distribution unless the States parties request otherwise, beginning with the seventeenth session." (A/32/18, paras. 331-333 and decision 2 (XVI)).[6]

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[6] At its seventeenth session, held in the spring of 1978, the Committee made consequential amendments to its provisional rules of procedure. Rules 34 and 62, as amended, now read:

"Rule 34

"1. The summary records of public meetings in their final form shall be documents for general distribution.

"2. The summary records of private meetings shall be distributed to the members of the Committee and to other participants in the meetings. They may be made available to others upon decision of the Committee at such time and under such conditions as the Committee may decide."

"Rule 62

"1. Without prejudice to the provisions of rule 34 of these rules of procedure and subject to paragraphs 2 and 3 of the present rule, reports, formal decisions and all other official documents of the Committee and its subsidiary bodies shall be documents for general distribution, unless the Committee decides otherwise.

"2. Reports, formal decisions and other official documents of the Committee and its subsidiary bodies relating to articles 11, 12 and 13 and article 14 of the Convention shall be distributed by the Secretariat to all members of the Committee, to the States Parties concerned and, as may be decided by the Committee, to members of its subsidiary bodies and to others concerned.

"3. Reports and additional information submitted by States Parties under article 9 of the Convention shall be documents for general distribution, unless the State Party concerned requests otherwise."

Chapter IV

Role of the Committee with respect to Trust and Non-Self-Governing Territories

158. The functions of the Committee with respect to petitions, reports and other information forwarded to it by competent United Nations bodies and relating to Trust and Non-Self-Governing Territories (and all other territories to which the Declaration on the Granting of Independence to Colonial Countries and Peoples applies), as defined in article 15 of the Convention, were outlined in chapter I. It remains for us now to describe the practice of the Committee in exercise of these functions.

A. Difficulties encountered by the Committee

159. The difficulties encountered by the Committee in its endeavours to obtain complete information under article 9 of the Convention, concerning the anti-discrimination measures taken by States parties in their respective territories (which were described in the preceding chapter), have been exceeded by far by the difficulties which the Committee has run into in the process of trying to obtain adequate relevant information on the territories mentioned in article 15. For, in the first place, in exercising its functions under article 9, the Committee is able, when necessary, to solicit the required information directly from the source—that source being States which, by ratifying or acceding to the Convention, had solemnly undertaken to supply such information. According to the procedure laid down in article 15, however, information from the Administering Authorities comes to the Committee not directly but in a round about way: through United Nations bodies whose primary concern is not the gathering of information on the elimination of racial discrimination. Accordingly, the information received or solicited by those bodies for their own use has not always been relevant to the Committee's mandate; and the truly pertinent information in the documents forwarded by those bodies to the Committee has been meagre

indeed. And, in the second place, the Authorities furnishing the information to the United Nations bodies concerned are not all under legally-binding obligations to adopt the anti-discrimination measures envisaged in the Convention or to report on them.

160. As a result, the Committee has found itself constrained while exercising its functions under article 15, to direct much of its attention to the task of ensuring that the information forwarded to it was sufficient and relevant—a task which, at best, is preparatory to its substantive responsibility of expressing opinions and making recommendations. We shall turn now to survey the efforts of the Committee in that regard.

B. Action to ensure the receipt of sufficient relevant information

161. At its first session, the Committee adopted a statement on its responsibilities under article 15 of the Convention, which it requested the Secretary-General to circulate on its behalf to the United Nations bodies concerned (A/8027, para. 57 and annex IV).

162. In that statement, the Committee indicated that it understood article 15 of the Convention to confer upon it the competence to consider all the relevant information forwarded to it, relating to any territory covered by article 15, without regard as to whether or not the administering Power concerned was a party to the Convention.

163. As far as petitions from the inhabitants of the territories in question were concerned, the Committee stated that it adopted a "broad definition" of the word "inhabitants" and was accordingly willing to receive from the competent United Nations bodies copies of relevant petitions addressed to those bodies "not only by persons actually resident in a territory at the time of submission of a petition but from other persons, including persons who, though originating in the territory, might find themselves outside it at the time they submitted their petition". The Committee added that it was willing "to receive from the competent bodies of the United Nations and to consider all petitions transmitted to it by those bodies by whomsoever they may be addressed, provided that they satisf[ied] the requirements of sub-paragraph 2 (*a*) of article 15 of the Convention"—i.e., provided that they related to "matters covered by [the] Convention". However, the Committee noted that the Convention did not empower it to receive any petitions, "directly or through any channels other than the bodies mentioned in sub-paragraph 2 (*a*) of that article".

164. As far as information from administering Powers was concerned, the Committee stated, in paragraph 6 of its statement:

> Without prejudice to the provisions of article 9, paragraph 1, of the Convention, the Committee notes that there is no provision in article 15 of the Convention authorizing the Committee to request an Administering Power to furnish it with information on matters relating to the principles and objectives of the Convention in a territory administered by it. Nor does article 15 empower the Committee to invite an Administering Power to send representatives to appear before the Committee for the purpose of supplying additional information or clarification or replying to inquiries. Article 15 of the Convention, however, does not limit the competence of the Committee to request a body of the United Nations, which has transmitted to it reports of an Administering Power or other pertinent information, to furnish it with such additional information as may be available to it.

165. Finally, the Committee proceeded to request the competent bodies and organs of the United Nations (in para. 7 of its initial statement):

> (*a*) To supply it, together with the copies of relevant petitions they will transmit to the Committee, with (i) such information as may be available to those bodies about the petitioners, (ii) information on the action which those bodies may have taken on the petitions, and (iii) records of the meetings at which the petitions were considered or the petitioners were heard;
>
> (*b*) To transmit to the Committee, as soon as they become available, copies of the reports submitted by the Administering Powers, including reports submitted in accordance with Articles 73 e and 88 of the United Nations Charter, and other relevant reports, such as working papers prepared by the Secretariat;
>
> (*c*) To indicate those portions of every report which, in the opinions of the appropriate bodies, are directly relevant to the principles and objectives of the Convention.

1. Reports and information from administering Powers

166. At its third session, the Committee adopted the text of a communication analogous to—and based upon—the first communication it had addressed to States parties on 28 January 1970, listing the headings and subheadings corresponding to which it wished to receive information. Addressing its new communication to the Trusteeship Council and the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, the Committee expressed the hope that those two bodies would obtain that detailed information from the administering Powers and forward it to the Committee (A/8418, paras. 101 and 102 and decision 2 (III)).

167. Both the Trusteeship Council and the Special Committee requested the Administering Authorities to include information called for in the Committee's communication in their annual reports (A/8418, para. 102).

168. At the fourth session, the Committee compiled a list of specific categories of information and other particulars missing in the reports relating to individual territories which it had received until then and, in decision 5 (IV), it recommended:

(1) That the Trusteeship Council and the Special Committee, in their respective spheres of competence, should "invite the administering Powers concerned to supply further and more complete particulars" which would then be forwarded to the Committee;

(2) That the Secretary-General "should bear in mind the above-mentioned requests" when supplying the Committee with information in accordance with article 15, paragraph 4, of the Convention;

(3) That the Trusteeship Council should request the next visiting missions to certain Trust Territories to gather information on the legislative, judicial, administrative and other measures taken by the Administering Authorities concerned relating to the principles and objectives of the Convention, and forward such information to the Committee; and

(4) That the Special Committee should "make every effort to ensure that visiting missions of the United Nations will be permitted to enter and inquire into conditions in territories referred to in article 15 of the Convention in order that the Committee may benefit from this additional source of information in considering the implementation of the principles and objectives of the Convention as regards the territories concerned". (Decision 5 (IV), part III.)

169. Additional requests for specific information, which the Committee hoped that the competent United Nations bodies would obtain from the administering Powers concerned, were made at subsequent sessions (e.g. decision 4 (VI), part I-D).

170. At its sixth session, the Committee was informed by the Secretary-General that the Trusteeship Council had decided to invite the Administering Authorities to include in their annual reports information on the matters listed in the relevant parts of decision 5 (IV) of the Committee (A/8718, para. 109) and that the Special Committee had decided to draw the attention of the administering Powers concerned to the relevant sections of the report of the Committee (A/8718, para. 110). Similar information was received by the Committee at subsequent sessions (A/9618, paras. 255 and 257, and A/32/18, para. 337).

2. Petitions

171. It will be recalled that, in the initial statement on its responsibilities under article 15, adopted by the Committee at its first session, the Trusteeship Council and the Special Committee were requested to supply the Committee *inter alia* with all available information on the petitioners whose petitions are forwarded to it.

172. At its second session, however, the Committee was informed by the Secretary-General that the Trusteeship Council had not found it possible to transmit such information "since it was not always possible for the Council to inquire into the *bona fides* of petitioners" (A/8027, para. 59).

3. "Working papers" prepared by the Secretariat

173. The Committee has sought to maximize the informativeness—as well as the relevance to its own mandate—of the "working papers" prepared by the Secretariat for the Trusteeship Council and the Special Committee and forwarded by them to the Committee.

174. In decision 3 (VI), the Committee asked those bodies to request the Secretary-General to "include in each working paper prepared for them by the Secretariat all information available to him pertaining to racial discrimination in those Territories and relating to the principles and objectives of the Convention", as this would be "of considerable assistance to the Committee in discharging its responsibilities under article 15".

175. When it was informed by the Secretary-General of the response of the Trusteeship Council—to the effect that the Secretariat was already complying with that request by including in the working papers on the Trust Territories the information available to it on racial discrimination (A/9018, para. 326)—the Committee adopted decision 2 (VIII), clarifying further the nature of the information it required and its reasons for requesting it (A/9018, para. 332). After referring to its previous decisions, 2 (III) and 3 (VI), the Committee proceeded in its new decision to request the General Assembly "once again specifically to draw the urgent attention of the Trusteeship Council and the Special Committee" to those decisions, adding that the requested information "should be collated in a separate section under each territory dealing specifically with the question of racial discrimination".

176. At its ninth session, the Committee was informed by the Secretary-General that the Special Committee had considered the Committee's request contained in its decision 3 (VI) and had invited the attention of the Secretary-General to the desire expressed therein concerning the working papers on specific territories prepared annually by the Secretariat for the Special Committee (A/9618, para. 256).

4. Other information

177. In connection with the present survey of the Committee's efforts to obtain as much relevant information as possible on the territories covered by article 15 of the Convention, it should be noted that decision 2 (VI), concerning co-operation with the ILO and UNESCO, authorized the Secretary-General to transmit to the Committee written statements submitted by those organizations and providing information on the application—in the territories mentioned in article 15 of the Convention—of the Discrimination (Employment and Occupation) Convention and Recommendation, 1958, and the Convention and Recommendation against Discrimination in Education, 1960 (decision 2 (VI), para. 3).

178. Information on the application of the ILO Convention and Recommendation mentioned above in some of the territories covered by article 15 was brought to the attention of the Committee at its eighth session (A/9018, para. 338) and was considered in connection with the Committeee's consideration of other material received by it in accordance with article 15 of the Convention (A/9018, para. 331).

179. Notwithstanding the efforts surveyed in the preceding paragraphs, the Committee's work under article 15 of the Convention has continued to suffer as a result of the inadequacy of the information available to it in accordance with the procedure laid down in that article, and the irrelevance of much of the material forwarded to it. In successive reports, the Committee has repeatedly brought this situation to the attention of the General Assembly with increasing emphasis and urgency.

180. At its twelfth session, held in the summer of 1975, the Committee prefaced its opinions and recommendations concerning particular regions and individual territories by a general observation applicable to all regions and territories. Paragraph 3 of that general observation states:

> The Committee notes that in the documents it has examined there is generally not sufficient information on the legislative, judicial, administrative or other measures directly related to the principles, objectives and provisions of the Convention, and in this connection it wishes to emphasize that, to enable it to discharge adequately its obligations under

article 15 of the Convention, such information should be invariably provided. (A/10018, para. 197.)

181. At its fourteenth session, held in the summer of 1976, the Committee acted in a similar manner. Paragraph (*c*) of its general observations states:

The Committee would again note with concern that the reports and documents of the Special Committee continue to relate, almost exclusively, to the problem of decolonization, without special reference to the question of racial discrimination, which is closely connected with the problem of decolonization. The Committee, therefore, reiterates its request, frequently made, that the Special Committee should pay more attention to the question of racial discrimination and insert, in its reports on Territories, as appropriate, a special chapter dealing with matters concerning racial discrimination. In the present circumstances, the Committee can only express the opinion that with regard to many territories under review (with the exception of Southern Rhodesia and Namibia), while there might be some evidence of racial discrimination, there was not sufficient information in the reports to justify any firm conclusions as to its nature or extent (A/31/18, para. 259).

182. And, at its sixteenth session, held in the summer of 1977, the Committee made the following general statement at the opening of its opinions and recommendations based on its consideration of the material forwarded to it under article 15 of the Convention:

The Committee has frequently requested the Special Committee, as a part of its functions, to obtain and to convey to it fuller information relating to racial discrimination in its reports on Trust and Non-Self-Governing Territories, and had, in fact, suggested that a special chapter be included in the working papers prepared by the Secretariat for the Special Committee on matters relating to racial discrimination. The Special Committee, however, has taken the view that, in the light of General Assembly resolution 3481 (XXX), "the total elimination of racial discrimination, *apartheid* and violations of the basic human rights of the peoples of colonial Territories will be achieved with the greatest speed by the faithful and complete implementation of the Declaration". The documents of the Special Committee therefore contain little information relating to the situation concerning racial discrimination in those Territories. In view of this situation, the Committee regrets that it continues to lack sufficient information on the basis of which it will be in a position adequately to discharge its responsibilities under article 15 of the Convention.

The Committee, while broadly concurring with the view expressed by the Special Committee, would, however, like to draw the attention of the Special Committee to the specific responsibility placed on the Committee on the Elimination of Racial Discrimination for combating all practices involving racial discrimination in Trust and Non-Self-Governing Territories, pending the attainment by them of their right to self-determination and independence in accordance with the Declaration on the Granting of Independence to Colonial Countries and Peoples.

The Committee, therefore, earnestly reiterates its request to the Special Committee to take steps, as appropriate, to obtain and to transmit to it the desired information to enable it to fulfil its task under article 15 of the Convention (A/32/18, para. 343).

183. At subsequent sessions these requests were repeated, to no effect. So at its thirty-seventh session the Committee made no observations upon the particular territories but simply reported:

The Committee once again finds it impossible to fulfil its functions under article 15, paragraph 2 (*a*), of the Convention, due to the total absence of any copies of petitions as provided therein. The Committee has studied the material furnished under article 15, paragraph 2 (*b*), and found that there was no valid information concerning legislative, judicial, administrative or other measures directly related to the principles and objectives of the Convention and, therefore, is unable to express any opinion and make any recommendation concerning the above-mentioned territories. The Committee therefore reiterates its request that it be furnished with the material expressly referred to in article 15 of the Convention to enable it to fulfil its functions.

184. While in 1974 the function of the Committee under article 15 of the Convention related to 40 territories, at the close of the thirty-seventh in 1989 only 18 such territories remained.

C. Working methods of the Committee

185. The procedure followed by the Committee in its consideration of the copies of petitions, reports and other information forwarded to it by the competent United Nations bodies pursuant to article 15 of the Convention has differed in several respects from the procedure it has followed in its examination of the reports and other information received from States parties in accordance with article 9.

186. Since the third session, the Committee has followed the practice of establishing, every year, small working groups which meet and work informally—studying the material relating to a group of territories assigned to them and then submitting to the Committee at its plenary meetings, draft opinions and recommmendations relating to those Territories.

187. From the third to the tenth sessions, the Committee set up four working groups every year, dealing with the following groups of Territories: Pacific and Indian Ocean Territories; Atlantic Ocean and Caribbean Territories, including Gibraltar; Territories under Portuguese administration; and other African Territories. (Information on the composition of the four working groups appears in A/8410, para. 103; A/8718, para. 112; A/9018, para. 329; and A/9618, para. 259.) Beginning with its eleventh session, however, and throughout 1975, 1976 and 1977, the reorganized working groups have dealt with the following groups of Territories: Pacific and Indian Ocean Territories; Atlantic Ocean and Caribbean Territories, including Gibraltar; and African Territories. (Information on the composition of the three working groups appears in A/10018, para. 194; A/31/18, para. 256; and A/32/18, para. 340.)

188. For each working group, a "Convener" is appointed.

189. In order to consolidate the reports of the working groups and ensure as much uniformity in their form and style as possible, the Committee has—since its eleventh session—followed the practice of appointing a Chairman of the Conveners of the working groups, who works with the Conveners to integrate the texts drafted by the groups before they are submitted to the Committee at its plenary meetings for adoption in final form.

190. Another difference between the working methods of the Committee in its exercise of its functions under article 9 of the Convention and those relating to article 15 lies in the fact that, whereas the deliberations of the Committee on reports received under article 9 are covered by the summary records of its meetings and are fully summarized in the Committee's annual reports to the General Assembly, the meetings of the working groups are informal and have no summary records; and only the opinions expressed and recommendations made by the Committee in final form, are included in the Committee's annual report, but not a summary of the discussions which precede their adoption.

Chapter V

Challenges and impediments, achievements and hopes

191. In concluding this review of its work, the Committee would like to make a few general observations.

192. It is convinced that the very fact of the coming into force of the Convention has heightened the awareness among States and of world public opinion of the evil of racial discrimination in all its forms and manifestations and of the urgent necessity for its eradication. The Convention establishes international norms of behaviour and prescribes the adoption of concrete measures in the legislative, judicial, administrative and other fields for the achievement of the desired end.

193. States parties to the Convention, by reason of their accession to it, bind themselves legally and morally to the due observance of the specific responsibilities undertaken by them. The fact that they are answerable under the Convention for their policies and actions in this regard, itself acts as a stimulant to corrective action. The obligation of States parties to report periodically on the concrete measures adopted by them, and to subject them to the scrutiny and evaluation of the Committee—and through it to those of the General Assembly and world public opinion—is a powerful factor in advancing the struggle for the elimination of racial discrimination. The Committee machinery for the implementation of the provisions of the Convention has proved to be practical and relatively effective.

194. The composition of the Committee—which consists of eighteen members sworn to impartiality and objectivity—and the responsibility placed on it for the promotion of the aims of the Convention, endows its opinions and general recommendations with special authority. In order to discharge that responsibility to the fullest possible degree, the Committee has elaborated its procedures and deepened its examination of the reports received by it. It has progressively established a relationship of mutual trust and confidence with the States parties for the achievement of their common task. This is evidenced by the fact that its numerous recommen-

dations and requests to States parties have been generally received by them with understanding and consideration. It is significant that in a number of instances States parties have enacted new legislation and taken administrative and other measures as recommended by the Committee. Furthermore, the interpretation by the Committee of its powers and functions and its observations and general recommendations have invariably met with the concurrence of the General Assembly.

195. These circumstances encourage the Committee to believe that its methods of work and its activities are in full accord not only with the letter and spirit of the Convention, but also with the views of the General Assembly as well as of the States parties themselves.

196. In conclusion, the Committee would like to state its belief that the relationship based upon partnership and shared convictions which exists between it and the States parties, will steadily advance the noble goals prescribed in the Convention to which the Committee and the States parties are equally dedicated. The fullest possible realization of the aims of the Convention will become possible only with the accession to it of every sovereign State without exception.

A. Challenges

197. As the first—and, for several years, the only—international machinery created within the framework of the measures of implementation provided for in a United Nations-sponsored Convention in the field of human rights, the Committee on the Elimination of Racial Discrimination could draw inspiration or derive guidance from the experiences or the practice of no other body. For its terms of reference were identical with those of no other body.

198. Moreover, the Committee has had to exercise its monitoring functions within an international system in which national sovereignty is vigilantly guarded by the component States.

199. Furthermore, racial discrimination, the subject-matter of the Committee's preoccupation, is abhorred and condemned by all States parties to the Convention; and, in one way, that fact simplifies the Committee's tasks. But, in another way, it adds complexity to the Committee's work. For the legislative, judicial, administrative and other measures which States parties have undertaken to adopt require political decisions, which are often affected by the immediate circumstances of the Governments concerned; and any suggestion that the measures adopted by

a given Government are not commensurate with the needs at hand or are not equal to its obligations under the Convention might be misconstrued as reflecting adversely on the will of that Government or as casting doubt on its commitment to the cause of combating the abomination of racial discrimination. Conscious of the fact that mutual confidence is essential for the effective functioning of the system established in the Convention, the Committee has felt constrained to tread cautiously on the uncharted road before it.

200. Members of the Committee have constantly borne in mind that the manner in which the Committee acquits itself in the performance of its tasks might influence not only the effective functioning of the system of international accounting and review built into the Convention but also the degree of universality which the Convention might attain—by encouraging other States to ratify or accede to the Convention or discouraging them from doing so. It might also have some influence on the enthusiasm with which the United Nations might proceed toward the formulation of other international instruments in the field of human rights and providing them with procedures and tools of international scrutiny analogous to, or modelled after, those provided for in the International Convention on the Elimination of All Forms of Racial Discrimination.

B. Impediments

201. It cannot be over-emphasized that the implementation of the substantive anti-discrimination provisions of part I of the Convention is the responsibility of the States parties alone. However, in addition to undertaking to take appropriate measures in order to comply with those provisions, States parties undertake also—and by virtue of the very act of ratification or accession—to submit the discharge of their substantive obligations to the system of international scrutiny provided for in part II of the Convention.

202. This system—which, in the drafting history of the Convention, was referred to as "measures of implementation"—has two aspects: international accountability on the part of the States parties, and international review by the machinery set up expressly for that purpose, namely, the Committee on the Elimination of Racial Discrimination. The tasks of the States parties under the procedures of international accountability, and the corresponding functions of the Committee (as well as the additional responsibilities assigned to it), were discussed in chapter I.

203. Without the conscientious fulfilment of the requirements of both of its twin aspects, the system of international scrutiny of the implementation of the provisions of the Convention cannot function as effectively as it was intended to. In chapters III and IV, some of the impediments to the effective functioning of the system were discussed.

204. In the areas covered by both chapters, it was noted that the Committee has been handicapped throughout its existence by its not receiving all the information on the basis of which it is called upon to exercise its functions. When States parties neglect to send in the reports called for in article 9 of the Convention, or fail to observe the time-table for the submission of reports provided for in that article, or fail to furnish adequate information corresponding to all the categories specified in that article, the Committee finds itself seriously handicapped in the exercise of its functions of reviewing the measures taken by States parties and, where appropriate, making suggestions and general recommendations. Similarly, when the Committee does not obtain sufficient information relative to the observance of the principles and the attainment of the objectives of the Convention in Trust and Non-Self-Governing Territories, its ability to perform its tasks of expressing opinions and making recommendations based on its consideration of such information is gravely diminished.

205. Article 10 (3) declares that the secretariat of the Committee shall be provided by the Secretary-General of the United Nations. Article 8 (6) declares that States parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties. This dual system of financing establishes the special responsibilities of the States parties which have chosen to ratify the Convention. Their contributions are assessed according to a United Nations scale which takes account of differences in national wealth. A disturbing number of States have failed to pay their assessments. Many of those who have failed have also been States which have not met their reporting obligations. Up to the end of 1985, the Secretary-General made good from United Nations funds the shortfall in the Committee's income so that it could continue to meet twice a year for three-week sessions. From 1986 onwards the Secretary-General was not prepared to continue doing so. As a result the session which would normally have been held in August 1986 was cancelled, and the August 1988 session reduced to two weeks. Appeals to the States parties and to the Secretary-General resulted in the reduction of arrears of payment but not enough to prevent the cancellation of the March 1988 session and the reduction to one week of the August 1987 session. At that session the Committee took a decision asking the General Assembly to note the relatively low cost of enabling

the Committee to continue its work and to authorize the Secretary-General on a temporary basis, to ensure the financing due under article 8 (6). The same decision was repeated. In 1989 the March session was again cancelled but a four-week session was possible in August; the Committee then adopted a decision expressing concern that the action of the General Assembly at its forty-third session had not had the desired effect and repeated its recommendation that the Secretary-General make good the shortfall.

C. Achievements

206. By the end of 1989, 129 States, more than three quarters of the membership of the United Nations, had ratified or acceded to the Convention, making it the most widely ratified as well as the oldest of all the United Nations human rights conventions. This figure testifies to the wave of international revulsion against the evil of racial discrimination and to the recognition of the importance of legal measures of prevention.

207. The first phase in human rights legislation has to be one of standard-setting. The International Convention specifies what a State has to do if it is to demonstrate a commitment to the struggle against racial discrimination. Many States have responded in a very positive manner: (*a*) some national constitutions have been amended in order to incorporate provisions prohibiting racial discrimination; (*b*) States parties have undertaken systematic reviews of their legislation to amend any laws or regulations which have the effect of perpetuating racial discrimination, or to enact new legislation to satisfy the requirements of the Convention, in accordance with article 2, paragraph 1 (*c*) and (*d*); (*c*) some States have amended their legislation at the suggestion of the Committee, for example, one State repealed a law which stipulated that a person must understand the national language in order to be entered on the electoral roll; (*d*) some States have added new provisions to their penal legislation, making racial discrimination a punishable offence, or have amplified previous legislation; (*e*) numerous States (about half those which are parties to the Convention) have enacted new laws designed to bring their legal norms into conformity with the provisions of article 4 (*a*) and (*b*) of the Convention;[7] (*f*) some States have enacted new legislation to give

[7] See Committee on the Elimination of Racial Discrimination, *Positive Measures designed to eradicate all incitement to, or acts of, racial discrimination*, CERD/2, United Nations, 1986.

effect to the provisions of various sections of article 5 and pressure has been applied to many States to get them to attend to the standards specified in this important article; (*g*) some States parties have initiated educational programmes in accordance with article 7; (*h*) some States have established new administrative agencies or new offices to deal with the problems of racial discrimination and to protect the interests of indigenous groups; (*i*) in many cases such concrete measures have been taken partly in order to permit the States to mention them in their reports; (*j*) progress in the implementation of other provisions of the Convention has also been reported to the Committee.

208. The Committee is happy to record that a number of States parties have formally informed it that such changes were introduced into their legal or administrative systems in response to the Committee's exhortations.

209. In a few instances, some States parties have consulted the Committee in advance about contemplated changes in their legislation or in their administrative practice and indicated that they would take the Committee's advice into serious consideration before giving final form to those proposed changes.

210. The Committee is pleased to record that article 14 of the Convention entered into force on 3 December 1982 following the deposit with the Secretary-General of the tenth declaration of the competence of the Committee to receive and consider communications from individuals or groups of individuals. During the thirty-sixth session the Committee adopted a decision on the first such communication (A/43/18, annex IV).

211. The procedure whereby the Committee reports annually, through the Secretary-General, to the General Assembly, has built an institutional structure whereby the problem of racial discrimination is kept on the international agenda. The report is discussed in the Third (Social, Humanitarian and Cultural) Committee and then in the General Assembly on that Committee's resolution. It is considered by all United Nations Member States and not just those which are parties to the Convention. A specialized vocabulary has been developed for analysing problems and describing policies. Considering the linguistic and cultural diversity of the many peoples represented, this is of considerable significance and marks a great advance over the position prior to the adoption of the Convention in 1965.

D. Hopes for the future

212. The second phase in human rights legislation has to be that of implementing the standards set in the first phase. Some States are understandably preoccupied with major problems of national security, subsistence, development (including external debt), internal conflict, and the like. It is nevertheless hoped that all States will, by their dialogue with the Committee, come to give higher priority to the prevention of racial discrimination than they might otherwise have done.

213. As it looks to the future after its first twenty years, the Committee hopes that the many recent tragedies stemming from racial and ethnic conflict in various regions of the world will make people everywhere the more determined to maintain the commitment which has made possible the progress so far recorded.

1. With respect to States parties

214. As far as States parties to the Convention are concerned, the Committee expresses the hope that the immediate future will witness an intensified effort on their part to adopt the measures required for fuller implementation of the anti-discrimination provisions of part I of the Convention, particularly those provisions which are not self-executing and which require positive action by every State party. High priority should be given to action in at least four areas:

(*a*) Legislative action to give effect to the requirements of article 4, paragraphs (*a*) and (*b*), regarding the dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination or violence, and the provision of any assistance to racist activities, including the financing thereof—whether such acts are committed by individuals or by organizations;

(*b*) Legislative action to give effect to the requirements of article 5 (*a*) to (*f*) in conjunction with action taken in accordance with the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights with its Optional Protocol;

(*c*) Legislative action to give effect to article 6 defining the remedies and reparation available to victims in their national legal order; and

(*d*) Administrative and other action, particularly in the fields of education, teaching, culture and information, in accordance with the

provisions of article 7 of the Convention—with a view to (i) combating prejudices which lead to racial discrimination, (ii) promoting understanding, tolerance and friendship among nations and racial or ethnic groups, and (iii) propagating the purposes and principles of the Charter of the United Nations and of the various declarations, conventions and covenants adopted by the United Nations in the field of human rights.

215. The Committee expresses the hope that States parties will also discharge, on a regular basis, their reporting obligations under article 9 of the Convention more punctually and more conscientiously than some States parties have done in the past.

216. Finally, the Committee expressed the hope that States parties which have not yet done so will express their opposition to racial discrimination by making the declaration envisaged in article 14, paragraph 1, of the Convention. This will enable the Committee to contribute more widely to implementation of the standards embodied in the Convention. Such a declaration recognizes the competence of the Committee to receive and consider communications from individuals or groups within their respective jurisdictions claiming to be victims of violations, by the States parties concerned, of any of the rights set forth in the Convention. It should be borne in mind that, in any case, every State party has already undertaken (by virtue of the act of ratifying or acceding to the Convention), in accordance with article 6, to assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination. Article 14 merely carries that undertaking one step further, within the system of international scrutiny provided for in the Convention. It offers individuals or groups who have failed to obtain satisfaction after exhausting all available domestic remedies—first at the local level and then at the national level—an opportunity to communicate the matter to the Committee. At the same time, however, the procedure laid down in article 14 offers the State party concerned also an opportunity to receive the considered opinion of the Committee—in the form of suggestions or recommendations made in the light of all the information available to it, including information furnished by the State party concerned clarifying the matter and describing any remedy it may have taken with respect to it.

2. With respect to States not parties to the Convention

217. It is the earnest hope of the Committee that States which have not yet ratified or acceded to the Convention will soon join the ranks of those which have done so, in order to energize and give greater effectiveness to the world-wide campaign against the evils of racial discrimination. The Committee also hopes that those States which have not yet ratified, or acceded to, the Convention will apply the Convention in their territories and make its norms the established norms of their national life, and its objectives their own standards of achievement.

218. It should be recalled that adherence to the Convention gives legal sanction to a prior commitment to combat racial discrimination made by all Members of the United Nations under the Charter. The Committee's appeal for universal ratification has already been made by the General Assembly in successive resolutions over the years. Progress has been encouraging but the problems have not diminished. Recent years have seen many conflicts engendered or exacerbated by racial and ethnic prejudices of the kind that lead to discrimination as defined in the Convention. Millions have died. More have had their lives ruined. It is therefore vital that the international community should give even greater support to the struggle for the elimination of racial discrimination.

ANNEXES

ANNEX I

International Convention on the Elimination of All Forms of Racial Discrimination

[*Adopted and opened for signature and ratification by General Assembly resolution 2016 A (XX) of 21 December 1965; entry into force: 4 January 1969, in accordance with article 19*]

The States Parties to this Convention,

Considering that the Charter of the United Nations is based on the principles of the dignity and equality inherent in all human beings, and that all Member States have pledged themselves to take joint and separate action, in co-operation with the Organization, for the achievement of one of the purposes of the United Nations which is to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

Considering that all human beings are equal before the law and are entitled to equal protection of the law against any discrimination and against any incitement to discrimination,

Considering that the United Nations has condemned colonialism and all practices of segregation and discrimination associated therewith, in whatever form and wherever they exist, and that the Declaration on the Granting of Independence to Colonial Countries and Peoples of 14 December 1960 (General Assembly resolution 1514 (XV)) has affirmed and solemnly proclaimed the necessity of bringing them to a speedy and unconditional end,

Considering that the United Nations Declaration on the Elimination of All Forms of Racial Discrimination of 20 November 1963 (General Assembly resolution 1904 (XVIII)) solemnly affirms the necessity of speedily eliminating racial discrimination throughout the world in all its forms and manifestations and of securing understanding of and respect for the dignity of the human person,

Convinced that any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere,

Reaffirming that discrimination between human beings on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and is capable of disturbing peace and security among peoples and the harmony of persons living side by side even within one and the same State,

Convinced that the existence of racial barriers is repugnant to the ideals of any human society,

Alarmed by manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of *apartheid*, segregation or separation,

Resolved to adopt all necessary measures for speedily eliminating racial discrimination in all its forms and manifestations, and to prevent and combat racist doctrines and practices in order to promote understanding between races and to build an international community free from all forms of racial segregation and racial discrimination,

Bearing in mind the Convention concerning Discrimination in respect of Employment and Occupation adopted by the International Labour Organisation in 1958, and the Convention against Discrimination in Education adopted by the United Nations Educational, Scientific and Cultural Organization in 1960,

Desiring to implement the principles embodied in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and to secure the earliest adoption of practical measures to that end,

Have agreed as follows:

Part I

Article 1

1. In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

2. This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.

3. Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.

4. Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

Article 2

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

(*a*) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

(*b*) Each State Party undertakes not no sponsor, defend or support racial discrimination by any persons or organizations;

(*c*) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(*d*) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;

(*e*) Each State Party undertakes, to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

Article 3

States Parties particularly condemn racial segregation and *apartheid* and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.

Article 4

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, *inter alia*:

(*a*) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

(*b*) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;

(*c*) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

Article 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(*a*) The right to equal treatment before the tribunals and all other organs administering justice;

(*b*) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;

(*c*) Political rights, in particular the right to participate in elections—to vote and to stand for election—on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;

(*d*) Other civil rights, in particular:

(i) The right to freedom of movement and residence within the border of the State;

(ii) The right to leave any country, including one's own, and to return to one's country;

(iii) The right to nationality;

(iv) The right to marriage and choice of spouse;

(v) The right to own property alone as well as in association with others;

(vi) The right to inherit;

(vii) The right to freedom of thought, conscience and religion;

(viii) The right to freedom of opinion and expression;

(ix) The right to freedom of peaceful assembly and association;

(*e*) Economic, social and cultural rights, in particular:

(i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;

(ii) The right to form and join trade unions;

(iii) The right to housing;

(iv) The right to public health, medical care, social security and social services;

(v) The right to education and training;

(vi) The right to equal participation in cultural activities;

(*f*) The right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafés, theatres and parks.

Article 6

States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

Article 7

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of Racial Discrimination, and this Convention.

PART II

Article 8

1. There shall be established a Committee on the Elimination of Racial Discrimination (hereinafter referred to as the Committee) consisting of eighteen experts of high moral standing and acknowledged impartiality elected by States Parties from among their nationals, who shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as of the principal legal systems.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties. Each State Party may nominate one person from among its own nationals.

3. The initial election shall be held six months after the date of the entry into force of this Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

5. (*a*) The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.

(*b*) For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.

6. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

Article 9

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted and which give effect to the provisions of this Convention: (*a*) within one year after the entry into force of the Convention for the State concerned; (*b*) thereafter every two years and whenever the Committee so requests. The Committee may request further information from the States Parties.

2. The Committee shall report annually, through the Secretary-General, to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of the reports and information received from the States Parties. Such suggestions and general recommendations shall be reported to the General Assembly together with comments, if any, from States Parties.

Article 10

1. The Committee shall adopt its own rules of procedure.

2. The Committee shall elect its officers for a term of two years.

3. The secretariat of the Committee shall be provided by the Secretary-General of the United Nations.

4. The meetings of the Committee shall normally be held at United Nations Headquarters.

Article 11

1. If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may bring the matter to the attention of the Committee. The Committee shall then transmit the communication to the State Party concerned. Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter again to the Committee by notifying the Committee and also the other State.

3. The Committee shall deal with a matter referred to it in accordance with paragraph 2 of this article after it has ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged.

4. In any matter referred to it, the Committee may call upon the States Parties concerned to supply any other relevant information.

5. When any matter arising out of this article is being considered by the Committee, the States Parties concerned shall be entitled to send a representative to take part in the proceedings of the Committee, without voting rights, while the matter is under consideration.

Article 12

1. (*a*) After the Committee has obtained and collated all the information it deems necessary, the Chairman shall appoint an *ad hoc* Conciliation Commission (hereinafter referred to as the Commission) comprising five persons who may or may not be members of the Committee. The members of the Commission shall be appointed with the unanimous consent of the parties to the dispute, and its good offices, shall be made available to the States concerned with a view to an amicable solution of the matter on the basis of respect for this Convention.

(*b*) If the States parties to the dispute fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission not agreed upon by the States parties to the dispute shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its own members.

2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States parties to the dispute or of a State not Party to this Convention.

3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. The meetings of the Commission shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Commission.

5. The secretariat provided in accordance with article 10, paragraph 3, of this Convention shall also service the Commission whenever a dispute among States Parties brings the Commission into being.

6. The States parties to the dispute shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.

7. The Secretary-General shall be empowered to pay the expenses of the members to the Commission, if necessary, before reimbursement by the States parties to the dispute in accordance with paragraph 6 of this article.

8. The information obtained and collated by the Committee shall be made available to the Commission, and the Commission may call upon the States concerned to supply any other relevant information.

Article 13

1. When the Commission has fully considered the matter, it shall prepare and submit to the Chairman of the Committee a report embodying its findings on all questions of fact relevant to the issue between the parties and containing such recommendations as it may think proper for the amicable solution of the dispute.

2. The Chairman of the Committee shall communicate the report of the Commission to each of the States parties to the dispute. These States shall, within three months, inform the Chairman of the Committee whether or not they accept the recommendations contained in the report of the Commission.

3. After the period provided for in paragraph 2 of this article, the Chairman of the Committee shall communicate the report of the Commission and the declarations of the States Parties concerned to the other States Parties to this Convention.

Article 14

1. A State Party may at any time declare that it recognizes the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by that State Party of any of the rights set forth in this Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.

2. Any State Party which makes a declaration as provided for in paragraph 1 of this article may establish or indicate a body within its national legal order which shall be competent to receive and consider petitions from individuals and groups of individuals within its jurisdiction who claim to be victims of a violation of any of the rights set forth in this Convention and who have exhausted other available local remedies.

3. A declaration made in accordance with paragraph 1 of this article and the name of any body established or indicated in accordance with paragraph 2 of this article shall be deposited by the State Party concerned with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General, but such a withdrawal shall not affect communications pending before the Committee.

4. A register of petitions shall be kept by the body established or indicated in accordance with paragraph 2 of this article, and certified copies of the register shall be filed annually through appropriate channels with the Secretary-General on the understanding that the contents shall not be publicly disclosed.

5. In the event of failure to obtain satisfaction from the body established or indicated in accordance with paragraph 2 of this article, the petitioner shall have the right to communicate the matter to the Committee within six months.

6. (*a*) The Committee shall confidentially bring any communication referred to it to the attention of the State Party alleged to be violating any provision of this Convention, but the identity of the individual or groups of individuals concerned shall not be revealed without his or their express consent. The Committee shall not receive anonymous communications.

(*b*) Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

7. (*a*) The Committee shall consider communications in the light of all information made available to it by the State Party concerned and by the petitioner. The Committee shall not consider any communication from a petitioner unless it has ascertained that the petitioner has exhausted all available domestic remedies. However, this shall not be the rule where the application of the remedies is unreasonably prolonged.

(*b*) The Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.

8. The Committee shall include in its annual report a summary of such communications and, where appropriate, a summary of the explanations and statements of the States Parties concerned and of its own suggestions and recommendations.

9. The Committee shall be competent to exercise the functions provided for in this article only when at least ten States Parties to this Convention are bound by declarations in accordance with paragraph 1 of this article.

Article 15

1. Pending the achievement of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV) of 14 December 1960, the provisions of this Convention shall in no way limit the right of petition granted to these peoples by other international instruments or by the United Nations and its specialized agencies.

2. (*a*) The Committee established under article 8, paragraph 1, of this Convention shall receive copies of the petitions from, and submit expressions of opinion and recommendations on these petitions to, the bodies of the United Nations which deal with matters directly related to the principles and objectives of this Convention in their consideration of petitions from the inhabitants of Trust and Non-Self-Governing Territories and all other territories to which General Assembly resolution 1514 (XV) applies, relating to matters covered by this Convention which are before these bodies.

(*b*) The Committee shall receive from the competent bodies of the United Nations copies of the reports concerning the legislative, judicial, administrative or other measures directly related to the principles and objectives of this Convention applied by the administering Powers within the Territories mentioned in subparagraph (*a*) of this paragraph, and shall express opinions and make recommendations to these bodies.

3. The Committee shall include in its report to the General Assembly a summary of the petitions and reports it has received from United Nations bodies, and the expressions of opinion and recommendations of the Committee relating to the said petitions and reports.

4. The Committee shall request from the Secretary-General of the United Nations all information relevant to the objectives of this Convention and available to him regarding the Territories mentioned in paragraph 2 (*a*) of this article.

Article 16

The provisions of this Convention concerning the settlement of disputes or complaints shall be applied without prejudice to other procedures for settling disputes or complaints in the field of discrimination laid down in the constituent instruments of, or in conventions adopted by, the United Nations and its specialized agencies, and shall not prevent the States Parties from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

PART III

Article 17

1. This Convention is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to this Convention.

2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 18

1. This Convention shall be open to accession by any State referred to in article 17, paragraph 1, of the Convention.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 19

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twenty-seventh instrument of ratification or instrument of accession.

2. For each State ratifying this Convention or acceding to it after the deposit of the twenty-seventh instrument of ratification or instrument of accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 20

1. The Secretary-General of the United Nations shall receive and circulate to all States which are or may become Parties to this Convention reservations made by States at the time of ratification or accession. Any State which objects to the reservation shall, within a period of ninety days from the date of the said communication, notify the Secretary-General that it does not accept it.

2. A reservation incompatible with the object and purpose of this Convention shall not be permitted, nor shall a reservation the effect of which would inhibit the operation of any of the bodies established by this Convention be allowed. A reservation shall be considered incompatible or inhibitive if at least two thirds of the States Parties to this Convention object to it.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General. Such notification shall take effect on the date on which it is received.

Article 21

A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

Article 22

Any dispute between two or more States Parties with respect to the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall, at the request of any of the parties to the dispute, be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.

Article 23

1. A request for the revision of this Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

Article 24

The Secretary-General of the United Nations shall inform all States referred to in article 17, paragraph 1, of this Convention of the following particulars:

(*a*) Signatures, ratifications and accessions under articles 17 and 18;

(*b*) The date of entry into force of this Convention under article 19;

(*c*) Communications and declarations received under articles 14, 20 and 23;

(*d*) Denunciations under article 21.

Article 25

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States belonging to any of the categories mentioned in article 17, paragraph 1, of the Convention.

ANNEX II

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination (129) as at 1 September 1990

State party	*Date of receipt of the instrument of ratification or accession*	*Entry into force*
Afghanistan	6 July 1983[a]	5 August 1983
Algeria	14 February 1972	15 March 1972
Antigua and Barbuda	25 October 1988[b]	25 October 1988[b]
Argentina	2 October 1968	4 January 1969
Australia	30 September 1975	30 October 1975
Austria	9 May 1972	8 June 1972
Bahamas	5 August 1975[b]	5 August 1975[b]
Bahrain	27 March 1990[a]	26 April 1990
Bangladesh	11 June 1979[a]	11 July 1979
Barbados	8 November 1972[a]	8 December 1972
Belgium	7 August 1975	6 September 1975
Bolivia	22 September 1970	22 October 1970
Botswana	20 February 1974[a]	22 March 1974
Brazil	27 March 1968	4 January 1969
Bulgaria	8 August 1966	4 January 1969
Burkina Faso	18 July 1974[a]	17 August 1974
Burundi	27 October 1977	26 November 1977
Byelorussian Soviet Socialist Republic	8 April 1969	8 May 1969
Cambodia	28 November 1983	28 December 1983
Cameroon	24 June 1971	24 July 1971
Canada	14 October 1970	15 November 1970
Cape Verde	3 October 1979[a]	2 November 1979
Central African Republic	16 March 1971	15 April 1971
Chad	17 August 1977[a]	16 September 1977
Chile	20 October 1971	19 November 1971
China	29 December 1981[a]	28 January 1982
Colombia	2 September 1981	2 October 1981
Congo	11 July 1988[a]	10 August 1988
Costa Rica	11 January 1967	4 January 1969
Côte d'Ivoire	4 January 1973[a]	3 February 1973
Cuba	15 February 1972	16 March 1972
Cyprus	21 April 1967	4 January 1969
Czech and Slovak Federal Republic	29 December 1966	4 January 1969

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination (129) as at 1 September 1990 (*continued*)

State party	*Date of receipt of the instrument of ratification or accession*	*Entry into force*
Denmark	9 December 1971	8 January 1972
Dominican Republic	25 May 1983[a]	24 June 1983
Ecuador	22 September 1966[a]	4 January 1969
Egypt	1 May 1967	4 January 1969
El Salvador	30 November 1979[a]	30 December 1979
Ethiopia	23 June 1976[a]	23 July 1976
Fiji	11 January 1973[b]	11 January 1973[b]
Finland	14 July 1970	13 August 1970
France	28 July 1971[a]	27 August 1971
Gabon	29 February 1980	30 March 1980
Gambia	29 December 1978[a]	28 January 1979
German Democratic Republic	27 March 1973[a]	26 April 1973
Germany, Federal Republic of	16 May 1969	15 June 1969
Ghana	8 September 1966	4 January 1969
Greece	18 June 1970	18 July 1970
Guatemala	18 January 1983	17 February 1983
Guinea	14 March 1977	13 April 1977
Guyana	15 February 1977	17 March 1977
Haiti	19 December 1972	18 January 1973
Holy See	1 May 1969	31 May 1969
Hungary	1 May 1967	4 January 1969
Iceland	13 March 1967	4 January 1969
India	3 December 1968	4 January 1969
Iran (Islamic Republic of)	29 August 1968	4 January 1969
Iraq	14 January 1970	13 February 1970
Israel	3 January 1979	2 February 1979
Italy	5 January 1976	4 February 1976
Jamaica	4 June 1971	4 July 1971
Jordan	30 May 1974[a]	29 June 1974
Kuwait	15 October 1968[a]	4 January 1969
Lao People's Democratic Republic	22 February 1974[a]	24 March 1974
Lebanon	12 November 1971[a]	12 December 1971
Lesotho	4 November 1971[a]	4 December 1971
Liberia	5 November 1976[a]	5 December 1976
Libyan Arab Jamahiriya	3 July 1968[a]	4 January 1969
Luxembourg	1 May 1978	31 May 1978
Madagascar	7 February 1969	9 March 1969
Maldives	24 April 1984[a]	24 May 1984
Mali	16 July 1974[a]	15 August 1974
Malta	27 May 1971	26 June 1971
Mauritania	13 December 1988	12 January 1989
Mauritius	30 May 1972[a]	29 June 1972

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination (129) as at 1 September 1990 (*continued*)

State party	*Date of receipt of the instrument of ratification or accession*	*Entry into force*
Mexico	20 February 1975	22 March 1975
Mongolia	6 August 1969	5 September 1969
Morocco	18 December 1970	17 January 1971
Mozambique	18 April 1983[a]	18 May 1983
Namibia	11 November 1982[a]	11 December 1982
Nepal	30 January 1971[a]	1 March 1971
Netherlands	10 December 1971	9 January 1972
New Zealand	22 November 1972	22 December 1972
Nicaragua	15 February 1978[a]	17 March 1978
Niger	27 April 1967	4 January 1969
Nigeria	16 October 1967[a]	4 January 1969
Norway	6 August 1970	5 September 1970
Pakistan	21 September 1966	4 January 1969
Panama	16 August 1967	4 January 1969
Papua New Guinea	27 January 1982[a]	26 February 1982
Peru	29 September 1971	29 October 1971
Philippines	15 September 1967	4 January 1969
Poland	5 December 1968	4 January 1969
Portugal	24 August 1982[a]	23 September 1982
Qatar	22 July 1976[a]	21 August 1976
Republic of Korea	5 December 1978[a]	4 January 1979
Romania	15 September 1970[a]	15 October 1970
Rwanda	16 April 1975[a]	16 May 1975
Saint Lucia	14 February 1990[b]	14 February 1990[b]
Saint Vincent and the Grenadines	9 November 1981[a]	9 December 1981
Senegal	19 April 1972	19 May 1972
Seychelles	7 March 1978[a]	6 April 1978
Sierra Leone	2 August 1967	4 January 1969
Solomon Islands	17 March 1982[b]	17 March 1982[b]
Somalia	26 August 1975	25 September 1975
Spain	13 September 1968[a]	4 January 1969
Sri Lanka	18 February 1982[a]	20 March 1982
Sudan	21 March 1977[a]	20 April 1977
Suriname	15 March 1984[b]	15 March 1984[b]
Swaziland	7 April 1969[a]	7 May 1969
Sweden	6 December 1971	5 January 1972
Syrian Arab Republic	21 April 1969[a]	21 May 1969
Togo	1 September 1972[a]	1 October 1972
Tonga	16 February 1972[a]	17 March 1972
Trinidad and Tobago	4 October 1973	3 November 1973
Tunisia	13 January 1967	4 January 1969
Uganda	21 November 1980[a]	21 December 1980

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination (129) as at 1 September 1990 (*concluded*)

State party	*Date of receipt of the instrument of ratification or accession*	*Entry into force*
Ukrainian Soviet Socialist Republic	7 March 1969	6 April 1969
Union of Soviet Socialist Republics	4 February 1969	6 March 1969
United Arab Emirates	20 June 1974[a]	20 July 1974
United Kingdom of Great Britain and Northern Ireland	7 March 1969	6 April 1969
United Republic of Tanzania	27 October 1972[a]	26 November 1972
Uruguay	30 August 1968	4 January 1969
Venezuela	10 October 1967	4 January 1969
Viet Nam	9 June 1982[a]	9 July 1982
Yemen[c]		
Yugoslavia	2 October 1967	4 January 1969
Zaire	21 April 1976[a]	21 May 1976
Zambia	4 February 1972	5 March 1972

[a] Accession.

[b] Date of receipt of notification of succession.

[c] As of 22 May 1990, the People's Democratic Republic of Yemen and the Yemen Arab Republic merged into a single sovereign State, The Republic of Yemen, with Sana'a as its capital. The People's Democratic Republic of Yemen had acceded to the Convention on 18 October 1972. The Yemen Arab Republic acceded to the Convention on 6 April 1989.

B. States parties which have made the declaration under article 14, paragraph 1, of the Convention

State party	*Date of deposit of the declaration*	*Effective date*
Algeria	12 September 1989	12 September 1989
Costa Rica	8 January 1974	8 January 1974
Denmark	11 October 1985	11 October 1985
Ecuador	18 March 1977	18 March 1977
France	16 August 1982	16 August 1982
Hungary	13 September 1990	13 September 1990
Iceland	10 August 1981	10 August 1981
Italy	5 May 1978	5 May 1978
Netherlands	10 December 1971	9 January 1972
Norway	23 January 1976	23 January 1976
Peru	27 November 1984	27 November 1984
Senegal	3 December 1982	3 December 1982
Sweden	6 December 1971	5 January 1972
Uruguay	11 September 1972	11 September 1972

ANNEX III

Members of the Committee

Member	*Country of nationality*	*Jan. 1970-Jan. 1972*	*Jan. 1972-Jan. 1974*	*Jan. 1974-Jan. 1976*	*Jan. 1976-Jan. 1978*	*Jan. 1978-Jan. 1980*	*Jan. 1980-Jan. 1982*	*Jan. 1982-Jan. 1984*	*Jan. 1984-Jan. 1986*	*Jan. 1986-Jan. 1988*	*Jan. 1988-Jan. 1990*
Mr. Mahmoud Aboul-Nasr	Egypt	×	×	×	×					×	×
Mr. Hamzat Ahmadu	Nigeria								×	×	×
Mr. Marc Ancel	France		×	×							
Mr. Jean-Marie Apiou	Burkina Faso							×	×		
Mr. Eugenio Carlos José Aramburu[a]	Argentina							×			
Mr. Yuli Bahnev[b]	Bulgaria				×	×	×				
Mr. Michael Parker Banton	United Kingdom									×	×
Mr. Mohamed Omer Beshir	Sudan									×	×
Mr. Stanislav A. Bessonov[c]	USSR						×				
Mr. Igor Pavlovich Blishchenko[d]	USSR				×						
Mr. André Braunschweig	France									×	×
Mr. Pedro Brin-Martinez	Panama				×	×					
Mr. Naste Dimo Calovski	Yugoslavia		×	×							
Mr. Nikola Cicanovic	Yugoslavia								×	×	
Mr. Alvin Robert Cornelius	Pakistan	×									
Mr. John J. Cremona	Malta								×	×	
Mr. Rajeshwar Dayal	India	×	×	×	×	×					
Mr. André Dechezelles	France				×	×					
Mr. Samiulla Khan Dehlavi	Pakistan		×	×							
Mr. Nicolás De Pierola y Balta	Peru								×	×	
Mr. Silvo Devetak	Yugoslavia				×	×					
Mr. Dimitrios J. Evrigenis[e]	Greece							×			
Mr. Oladapo Olusola Fafowora[f]	Nigeria							×			

Members of the Committee (*continued*)

Member	*Country of nationality*	Jan 1970-Jan 1972	Jan 1972-Jan 1974	Jan 1974-Jan 1976	Jan 1976-Jan 1978	Jan 1978-Jan 1980	Jan 1980-Jan 1982	Jan 1982-Jan 1984	Jan 1984-Jan 1986	Jan 1986-Jan 1988	Jan 1988-Jan 1990
Mr. Eduardo Ferrero Costa	Peru										×
Mr. Isi Foighel	Denmark										×
Mr. Ivan Garvalov	Bulgaria										×
Mr. Mikhail Zakharovich Getmanets	Ukrainian SSR	×									
Mr. Abdel Moneim M. Ghoneim	Egypt					×	×	×	×		
Mr. Ousmane Goundiam	Senegal					×	×				
Mr. Adedokum A. Haastrup[g]	Nigeria	×	×	×	×						
Mr. Christopher O. Hollist[h]	Nigeria				×	×					
Mr. José D. Ingles	Philippines	×	×	×	×						
Mr. Paul Joan George Kapteyn	Netherlands			×	×						
Mr. Matey Karasimeonov[i]	Bulgaria										
Mr. George O. Lamptey	Ghana			×	×	×	×	×	×	×	
Mr. Robert St. John Macdonald	Canada		×	×				×	×	×	×
Sir Herbert Marchant	United Kingdom	×	×								
Mr. Mohied-Din Nabavi	Iran (Islamic Republic of)				×	×					
Mr. Evgeny Nikolaevich Nasinovsky[j]	USSR				×	×					
Mr. Erik Nettel[k]	Austria				×	×					
Mr. Kjell Oberg	Sweden										
Mr. Manuel V. Ordoñez	Argentina								×	×	
Mr. Gonzalo Ortiz-Martin	Costa Rica	×	×	×			×				
Mrs. Doris Owusu-Addo	Ghana	×	×								
Mr. Willibald P. Pahr[l]	Austria				×						
Mr. Karl Josef Partsch	Federal Republic of Germany	×	×	×	×	×	×	×	×	×	×
Mr. Aleksander Peles	Yugoslavia	×									
Mr. Zbigniew Resich	Poland	×									

Members of the Committee (*continued*)

Member	*Country of nationality*	Jan. 1970-Jan. 1972	Jan. 1972-Jan. 1974	Jan. 1974-Jan. 1976	Jan. 1976-Jan. 1978	Jan. 1978-Jan. 1980	Jan. 1980-Jan. 1982	Jan. 1982-Jan. 1984	Jan. 1984-Jan. 1986	Jan. 1986-Jan. 1988	Jan. 1988-Jan. 1990
Mr. Yuri A. Reshetov	USSR										×
Mr. Jorge Rhenan Segura	Costa Rica										×
Mr. Zenon Rossides	Cyprus	×									
Mr. Emmanuel Roucounas[m]	Greece								×		
Mr. Vasily S. Safronchuk[n]	USSR		×	×							
Mrs. Shanti Sadiq Ali	India							×	×	×	×
Mr. Arturo Enrique Sampay[o]	Argentina				×						
Mr. Fayez A. Sayegh[p]	Kuwait	×	×	×	×	×	×				
Mr. Agha Shahi	Pakistan					×	×	×	×	×	×
Mr. Michael E. Sherifis	Cyprus							×	×	×	×
Mr. Sebastian Soler	Argentina		×	×							
Mr. Song Shuhua	China								×	×	×
Mr. Gleb Borisovich Starushenko[q]	USSR							×	×	×	
Mr. S. T. M. Sukati	Swaziland	×	×								
Mr. Nikolai K. Tarasov[r]	USSR	×	×								
Mr. Georges Tenekides	Greece					×	×				
Mr. Jan Tomko	Czechoslovakia	×	×	×							
Mr. Luis Valencia-Rodriguez	Ecuador	×	×	×	×	×	×	×	×		
Mr. Kasimir Vidas	Yugoslavia										×
Mr. Frederico Videla-Escalada[s]	Argentina				×	×					
Mrs. Halima Embarak Warzazi	Morocco		×	×							
Mr. Shuaib Uthman Yolah[t]	Nigeria							×			
Mr. Mario Jorge Yutzis	Argentina								×	×	×

[a] Replaced Mr. Ordoñez at the twenty-fifth session of the Committee (A/37/18, para. 6).
[b] Resigned before the twenty-seventh session of the Committee (A/38/18, para. 4).
[c] Resigned before the twenty-fourth session of the Committee (A/36/18, para. 6).
[d] Resigned before the opening of the sixteenth session of the Committee (A/32/18, para. 3(c)).
[e] Resigned during the thirtieth session of the Committee (A/39/18, para. 5).
[f] Replaced Mr. Yolah at the twenty-sixth session of the Committee (A/37/18, para. 8).
[g] Resigned during the thirteenth session of the Committee (A/31/18, para. 13).
[h] Replaced Mr. Haastrup at the thirteenth session of the Committee (A/31/18, paras. 15 and 16).
[i] Replaced Mr. Bahnev at the twenty-seventh session of the Committee (A/38/18, para. 5).
[j] Replaced Mr. Blishchenko at the sixteenth session of the Committee (A/32/18, para. 3 (c)).
[k] Replaced Mr. Pahr at the fifteenth session of the Committee (A/32/18, para. 3 (a)).
[l] Resigned at the fifteenth session of the Committee (A/32/18, para. 3 (a)).
[m] Replaced Mr. Evrigenis at the thirtieth session of the Committee (A/39/18, para. 6).
[n] Replaced Mr. Tarassov at the sixth session of the Committee (A/8718, paras. 4 and 5).
[o] Died before the opening of the fifteenth session of the Committee (A/32/18, para. 3(b)).
[p] Died before the opening of the twenty-third session of the Committee (A/36/18, para. 4).
[q] Replaced Mr. Bessonov at the twenty-fourth session of the Committee (A/36/18, para. 7).
[r] Resigned before the opening of the sixth session of the Committee (A/8718, para. 4).
[s] Replaced Mr. Sampay at the sixteenth session of the Committee (A/32/18, para. 3(b)).
[t] Replaced Mr. Hollist at the twentieth session of the Committee (A/34/18, para. 5).

ANNEX IV

Officers of the Committee

	1970 and 1971 (1st to 4th sessions)	*1972 and 1973 (5th to 8th sessions)*	*1974 and 1975 (9th to 12th sessions)*	*1976 and 1977 (13th to 16th sessions)*	*1978 and 1979 (17th to 20th sessions)*
Chairman:	Mr. Dayal (India)	Mr. Valencia-Rodriguez (Ecuador)	Mr. Haastrup (Nigeria)	Mr. Kapteyn (Netherlands)	Mr. Lamptey (Ghana)
Vice-Chairmen:	Mr. Haastrup (Nigeria)	Mr. Ancel (France)	Mr. Calovski (Yugoslavia)	Mr. Blishchenko (USSR)*	Mr. Brin-Martinez (Panama)
	Mr. Ortiz-Martin (Costa Rica)	Mr. Haastrup (Nigeria)	Mr. Soler (Argentina)	Mr. Lamptey (Ghana)	Mr. Nasinovsky (USSR)
	Mr. Resich (Poland)	Mr. Tomko (Czechoslovakia)	Mr. Macdonald (Canada)	Mr. Sampay (Argentina)*	Mr. Partsch (Germany, Federal Republic of)
Rapporteur:	Mr. Sayegh (Kuwait)	Mr. Sayegh (Kuwait)	Mr. Sayegh (Kuwait)	Mr. Sayegh (Kuwait)	Mr. Sayegh (Kuwait)

Officers of the Committee (*continued*)

	1980 and 1981 (21st to 24th sessions)	*1982 and 1983 (25th to 28th sessions)*	*1984 and 1985 (29th to 32nd sessions)*	*1986 and 1987 (33rd to 35th sessions)*	*1988 and 1989 (36th to 37th sessions)*
Chairman:	Mr. Bahnev (Bulgaria)	Mr. Ingles (Philippines)	Mr. Valencia-Rodriguez (Ecuador)	Mr. Cremona (Malta)	Mr. Lamptey (Ghana)
Vice-Chairmen:	Mr. Goundiam (Senegal)	Mr. Lamptey (Ghana)	Mr. Karasimeonov (Bulgaria)	Mr. Cicanovic (Yugoslavia)	Mr. Garvalov (Bulgaria)
	Mr. Ingles (Philippines)	Mr. Starushenko (USSR)	Mr. Lamptey (Ghana)	Mr. Lamptey (Ghana)	Mr. Partsch (Germany, Federal Republic of)
	Mr. Valencia-Rodriguez (Ecuador)	Mr. Valencia-Rodriguez (Ecuador)	Mr. Sherifis (Cyprus)	Mr. Yutzis (Argentina)	Mr. Yutzis (Argentina)
Rapporteur:	Mr. Partsch (Germany, Federal Republic of)	Mr. Partsch (Germany, Federal Republic of)	Mr. Partsch (Germany, Federal Republic of)	Mrs. Sadiq Ali (India)	Mrs. Sadiq Ali (India)

* At its sixteenth session, the Committee elected Mr. Brin-Martinez and Mr. Nasinovsky as Vice-Chairmen to fill the vacancies created in its Bureau by the death of Mr. Sampay and the resignation of Mr. Blishchenko (A/32/18, para. 7).

Annex V

General recommendations I to IX and decisions 3 (VII) to 1 (XXXVI) of the Committee

General recommendation I adopted by the Committee at its 96th meeting, on 24 February 1972

(Decision 3 (V) A/8718, chapter IX, section A)

On the basis of the consideration at its fifth session of reports submitted by States Parties under article 9 of the Convention, the Committee found that the legislation of a number of States Parties did not include the provisions envisaged in article 4 (*a*) and (*b*) of the Convention, the implementation of which (with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention) is obligatory under the Convention for all States Parties.

The Committee accordingly recommends that the States Parties whose legislation was deficient in this respect should consider, in accordance with their national legislative procedures, the question of supplementing their legislation with provisions conforming to the requirements of article 4 (*a*) and (*b*) of the Convention.

General recommendation II adopted by the Committee at its 97th meeting, on 24 February 1972

(Decision 4 (V) A/8718, chapter IX, section A)

The Committee has considered some reports from States Parties which expressed or implied the belief that the information mentioned in the Committee's communication of 28 January 1970 (CERD/C/R.12, contained in document A/8027, annex III) need not be supplied by States Parties on whose territories racial discrimination does not exist.

However, inasmuch as, in accordance with article 9, paragraph 1, of the Convention, all States Parties undertake to submit reports on the measures that they have adopted and that give effect to the provisions of the Convention, and since all the categories of information listed in the Committee's communication of 28 January 1970 refer to obligations undertaken by the States Parties without distinction, whether or not racial discrimination exists in their respective territories, the Committee welcomes the inclusion in the reports from all States Parties, which have not done so, of the necessary information in conformity with all the headings set out in the aforementioned communication of the Committee.

General recommendation III adopted by the Committee at its 112th meeting, on 18 August 1972

(Decision 1 (VI) A/8718, chapter IX, section B)

The Committee has considered some reports from States Parties containing information about measures taken to implement resolutions of United Nations organs concerning relations with the racist régimes in southern Africa.

The Committee notes that in paragraph 10 of the preamble to the Convention, States Parties have "resolved", *inter alia*, "to build an international community free from all forms of racial segregation and racial discrimination".

It notes also that, in article 3 of the Convention, "States Parties particularly condemn racial segregation and *apartheid*".

Furthermore, the Committee notes, that in resolution 2784 (XXVI), section II, the General Assembly, immediately after taking note with appreciation of the Committee's second annual report and endorsing certain opinions and recommendations submitted by it, proceeded to call upon "all the trading partners of South Africa to abstain from any action that constitutes an encouragement to the continued violation of the principles and objectives of the International Convention on the Elimination of All Forms of Racial Discrimination by South Africa and the illegal régime in Southern Rhodesia".

The Committee expresses the view that measures adopted on the national level to give effect to the provisions of the Convention are interrelated with measures taken on the international level to encourage respect everywhere for the principles of the Convention.

The Committee welcomes the inclusion in the reports submitted under article 9, paragraph 1, of the Convention, by any State Party which chooses to do so, of information regarding the status of its diplomatic, economic and other relations with the racist régimes in southern Africa.

General recommendation IV adopted by the Committee at its 161st meeting, on 16 August 1973

(Decision 1 (VII) A/9018, chapter X, section B)

The Committee on the Elimination of Racial Discrimination,

Having considered reports submitted by States Parties under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination at its seventh and eighth sessions,

Bearing in mind the need for the reports sent by States Parties to the Committee to be as informative as possible,

Invites States Parties to endeavour to include in their reports under article 9 relevant information on the demographic composition of the population referred to in the provisions of article 1 of the Convention.

General recommendation V adopted by the Committee at its 338th meeting, on 13 April 1977

(Decision 3 (XV) A/32/18, chapter VIII, section A)

The Committee on the Elimination of Racial Discrimination,

Bearing in mind the provisions of articles 7 and 9 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Convinced that combating prejudices which lead to racial discrimination, promoting understanding, tolerance and friendship among racial and ethnic groups, and propagating the principles and purposes of the Charter of the United Nations and of the human rights declarations and other relevant instruments adopted by the General Assembly of the United Nations, are important and effective means of eliminating racial discrimination,

Considering that the obligations under article 7 of the Convention, which are binding on all States Parties, including States which declare that racial discrimination is not practised on the territories under their jurisdiction must be fulfilled by them; and that therefore all States Parties are required to include information on their implementation of the provisions of that article in the reports they submit in accordance with article 9, paragraph 1, of the Convention,

Noting with regret that few States Parties have included, in the reports they have submitted in accordance with article 9 of the Convention, information on the measures which they have adopted and which give effect to the provisions of article 7 of the Convention; and that that information has often been general and perfunctory,

Recalling that, in accordance with article 9, paragraph 1, of the Convention, the Committee may request further information from States Parties,

1. *Requests* every State Party which has not already done so to include—in the next report it will submit in accordance with article 9 of the Convention, or in a special report before its next periodic report becomes due—adequate information on the measures which it has adopted and which give effect to the provisions of article 7 of the Convention;

2. *Invites* the attention of States Parties to the fact that, in accordance with article 7 of the Convention, the information to which the preceding paragraph refers should include information on the "immediate and effective measures" which they have adopted, "in the fields of teaching, education, culture and information", with a view to:

(*a*) "combating prejudices which lead to racial discrimination",

(*b*) "promoting understanding, tolerance and friendship among nations and racial or ethnical groups", and

(*c*) "propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination" as well as the International Convention on the Elimination of All Forms of Racial Discrimination.

General recommendation VI adopted by the Committee at its 569th meeting, on 15 March 1982

(*Decision 1 (XXV) A/37/18, chapter IX, section A*)

The Committee on the Elimination of Racial Discrimination,

Recognizing the fact that an impressive number of States has ratified, or acceded to, the International Convention on the Elimination of All Forms of Racial Discrimination,

Bearing in mind, however, that ratification alone does not enable the control system set up the Convention to function effectively,

Recalling that article 9 of the Convention obliges States Parties to submit initial and periodic reports on the measures that give effect to the provisions of the Convention,

Stating that at present no less than 89 reports are overdue from 62 States, that 42 of those reports are overdue from 15 States, each with two or more outstanding reports, and that four initial reports which were due between 1973 and 1978 have not been received,

Noting with regret that neither reminders sent through the Secretary-General to States Parties nor the inclusion of the relevant information in the annual reports to the General Assembly has had the desired effect, in all cases,

Invites the General Assembly:

(*a*) To take note of the situation;

(*b*) To use its authority in order to ensure that the Committee could more effectively fulfil its obligations under the Convention.

General recommendation VII adopted by the Committee at its 746th meeting, on 20 August 1985

(*Decision 2 (XXXII) A/40/18, chapter VII, section B*)

The Committee on the Elimination of Racial Discrimination,

Having considered periodic reports of States Parties for a period of 16 years, and in over 100 cases sixth, seventh and eighth periodic reports of States Parties,

Recalling and reaffirming its General Recommendation I of 24 February 1972 and its Decision 3 (VII) of 4 May 1973,

Noting with satisfaction that in a number of reports States Parties have provided information on specific cases dealing with the implementation of article 4 of the Convention with regard to acts of racial discrimination,

Noting, however, that in a number of States Parties the necessary legislation to implement article 4 of the Convention has not been enacted, and that many States Parties have not yet fulfilled all the requirements of article 4 (*a*) and (*b*) of the Convention,

Further recalling that, in accordance with the first paragraph of article 4, States Parties "undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination", with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention,

Bearing in mind the preventive aspects of article 4 to deter racism and racial discrimination as well as activities aimed at their promotion or incitement,

1. *Recommends* that those States Parties whose legislation does not satisfy the provisions of article 4 (*a*) and (*b*) of the Convention take the necessary steps with a view to satisfying the mandatory requirements of that article;

2. *Requests* that those States Parties which have not yet done so inform the Committee more fully in their periodic reports of the manner and extent to which the provisions of article 4 (*a*) and (*b*) are effectively implemented and quote the relevant parts of the texts in their reports;

3. *Further requests* those States Parties which have not yet done so to endeavour to provide in their periodic reports more information concerning decisions taken by the competent national tribunals and other State institutions regarding acts of racial discrimination and in particular those offences dealt with in article 4 (*a*) and (*b*).

General recommendation VIII adopted by the Committee at its 884th meeting, on 21 August 1990

(*Decision 1 (XXXVIII) A/45/18, chapter VII*)

The Committee on the Elimination of Racial Discrimination,

Having considered reports from States Parties concerning information about the ways in which individuals are identified as being members of a particular racial or ethnic group or groups,

Is of the opinion that such identification shall, if no justification exists to the contrary, be based upon self-identification by the individual concerned.

General recommendation IX adopted by the Committee at its 884th meeting, on 21 August 1990

(*Decision 2 (XXXVIII) A/45/18, chapter VII*)

The Committee on the Elimination of Racial Discrimination,

Considering that respect for the independence of the experts is essential to secure full observance of human rights and fundamental freedoms,

Recalling article 8, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination,

Alarmed by the tendency of the representatives of States, organizations and groups to put pressure upon experts, especially those serving as country rapporteurs,

Strongly recommends that they respect unreservedly the status of its members as independent experts of acknowledged impartiality serving in their personal capacity.

Request for information from States Parties concerning their obligations under Article 4 of the Convention adopted by the Committee at its 125th and 145th meetings, on 19 April and 4 May 1973

(Decision 3 (VII), A/9018, chapter X, section A)

The Committee on the Elimination of Racial Discrimination,

Having considered reports submitted by States Parties under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Bearing in mind the need for the inclusion of precise information in these reports concerning all relevant provisions of the Convention,

Recalling and reaffirming General Recommendation I adopted by the Committee on 24 February 1972,[1]

Requests the States Parties:

1. To indicate what specific penal internal legislation designed to implement the provisions of article 4 (*a*) and (*b*) has been enacted in their respective countries and to transmit to the Secretary-General in one of the official languages the texts concerned as well as such provisions of general penal law as must be taken into account when applying such specific legislation;

2. Where no such specific legislation has been enacted, to inform the Committee on the manner and the extent to which the provisions of the existing penal law, as applied by the Courts, effectively implement their obligations under article 4 (*a*) and (*b*), and to transmit to the Secretary-General in one of the official languages the texts of those provisions.[2]

Decision 2 (XI) concerning relations with racist régimes, adopted by the Committee at its 233rd meeting, on 7 April 1975

(A/10018, chapter VII, section A)

The Committee on the Elimination of Racial Discrimination,

Recalling its General Recommendation III, in which it expressed the view that measures adopted on the national level to give effect to the provisions of the Convention are interrelated with measures taken on the international level to encourage respect for the principles of the Convention,

Noting that the Programme for the Decade for Action to Combat Racism and Racial Discrimination, contained in resolution 3057 (XXVIII) of the General Assembly of the United Nations declares that one of the ultimate goals of the Decade is to resist any policy

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[1] See text of general recommendation I above.

[2] This decision also included a third operative paragraph which requested States Parties to whom the decision was circulated in May 1973 to submit the information mentioned in operative paragraphs 1 and 2 of the decision by 31 December 1973.